

Sr. No.268

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM No. M-6661 of 2017 (O&M)

Date of Decision:08.03.2017

Arshdeep Singh

... Petitioner

Versus

Union Territory, Chandigarh

... Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. G.B.S.Dhillon, Advocate,
for the petitioner.

Mr. Deepinder Brar, A.P.P., UT., Chandigarh.

TEJINDER SINGH DHINDSA, J.(ORAL)

The instant petition has been preferred under Section 482 Cr.P.C. seeking quashing of an order dated 14.02.2017 passed by the trial Court and in terms of which an application moved by the petitioner seeking permission to go abroad i.e. Australia for a period of 03 months has been declined.

Petitioner along with Yogbir Singh and Rohit Bassi co-accused is facing trial in FIR No.03 dated 01.01.2017, under Sections 323, 332, 353, 506 and 34 of Indian Penal Code, registered at Police Station Sector-36, Chandigarh.

Suffice it to notice that FIR was registered on the statement of Constable Rajak Kram on the allegations that he had been assaulted by the accused party including the petitioner and thereby he had been obstructed in

the discharge of his official duties. The complainant is stated to have suffered simple injuries in the alleged occurrence.

An application moved by the petitioner seeking permission to proceed to Australia for a period of 03 months stands rejected in terms of the impugned order dated 14.02.2017 passed by the learned Judicial Magistrate Ist Class, Chandigarh.

Perusal of the impugned order placed on record at Annexure P-2 would reveal that the prayer of the petitioner has been declined on the basis that the petitioner is an Australian citizen, his family is also settled there and he is engaged in a private job. As such view has been taken that there is every chance for the petitioner to flee away from the trial proceedings.

Notice of motion in the instant petition was issued on 01.03.2017.

By way of response, a reply of the Deputy Superintendent of Police, South, Chandigarh has been filed in Court today and the same is taken on record. Copy has been furnished to counsel for the petitioner. With the consent of the counsel for the parties, the petition is taken up for disposal today itself.

In the reply filed on behalf of the U.T., Chandigarh, the same very objections have been reiterated which form the basis for rejection of the application moved by the petitioner and passing of the impugned order dated 14.02.2017 at Annexure P-2.

Having heard counsel for the parties at length, this Court is, however, inclined to accept the prayer made by the petitioner.

The factum of the petitioner being an Australian citizen is

conceded by counsel for the petitioner. However, Court has been apprised that the petitioner has a valid visa to visit India up to 16.04.2017. In para 6 of the reply filed by U.T., Chandigarh, the facts have been verified and it has been stated that father and mother of the petitioner as also paternal grandfather are permanent residents of Village Khakh, District Tarn Taran and they are citizens of India. Clearly, the petitioner has his roots in India and his parents are agriculturists and having their own land holding.

The prayer of the petitioner to visit Australia in the light of his visa expiring on 16.04.2017 shall be construed as a genuine prayer and which merits consideration. However, at the same time, stringent conditions are required to be imposed to ensure that even in the eventuality of the prayer of the petitioner being accepted, he rejoins the trial proceedings.

In the totality of the circumstances, the prayer of the petitioner seeking permission to proceed to Australia is partly accepted to the extent of according permission to proceed abroad for a period of 02 months and to be made effective from 02.04.2017. The period of 02 months shall be counted from the date of his departure from India and such date he shall intimate to the trial Court.

Petitioner shall execute a personal bond and surety in the sum of Rs.15 lakhs to the satisfaction of the trial Court, undertaking to appear immediately after the expiry of 02 months' period.

Needless to observe that after the petitioner executes the requisite personal bonds and surety as indicated here-in-above, the passport would be released to the petitioner to facilitate his travelling abroad.

Pursuant to the view taken by this Court, the order dated 14.02.2017 passed by the trial Court at Annexure P-2 is set aside.

Disposed of.

08.03.2017

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes