

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**LPA No.650 of 2017 (O&M)**

**Date of Decision : 27.04.2017**

Kulwinder Kaur

....Appellant

Versus

State of Punjab and another

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER  
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN

....

Present: Mr. Lakhwinder Singh Mann, Advocate  
for the appellant.

....

**MAHESH GROVER, J.** (Oral)

This Letters Patent Appeal has been preferred against the order of the learned Single Judge passed while exercising his criminal jurisdiction under Section 482 Cr.P.C. on a petition initiated by the appellant seeking quashing of FIR No.139 dated 24.05.2013 under Section 420 IPC as also a subsequent order dated 07.05.2014 declaring the appellant as a proclaimed offender.

Learned counsel for the appellant when confronted with the issue of maintainability of the Letters Patent Appeal against the said orders contended that since the impugned orders retaining his passport would affect his personal life and liberty, he would be entitled to invoke the Letters Patent jurisdiction in view of curtailment of his liberty under Article 21 of the Constitution of India. In support his contention he has placed reliance on a judgment rendered on 21.3.2017 in **Civil Appeal No.4288 of 2017** titled *Ram*

*Kishan Fauji v. State of Haryana and ors., Adishwar Jain v. Union of India and another* **2006(2) RCR (Criminal) 561**, *Satwant Singh Sawhney v. D.Ramarathnam, Assistant Passport Officer, New Delhi and others* **1967 AIR (SC) 1836** and *A.G.Kazi and others v. C.V.Jethwani* **1967 AIR (Bombay) 235**.

All the aforesaid judgments emanate from an exercise of writ jurisdiction by the Single Judge whereupon subsequent proceedings were gone into. There would be no quarrel if the impugned orders had emanated likewise from the constitutional remedies available to the appellant. Learned counsel for the appellant would, however, contend that it is the nature of relief sought which would determine the course of the remedy available to an individual. Since his personal liberty has been curtailed by virtue of the impugned orders, the provisions of Article 21 of the Constitution of India would straightway be attracted which would entitle him to avail the present remedy. He has referred to the observations made by the Hon'ble Supreme Court in *Ram Kishan Fauji's case* (supra) which may be extracted herebelow :

“31. After so stating, the Court elucidated the nature of criminal proceeding and, in that regard, ruled thus :-

A criminal proceeding on the other hand is ordinarily one in which if carried to its conclusion it may result in the imposition of sentences such as death, imprisonment, fine or forfeiture of property. It also includes proceedings in which in the larger interest of the State, orders to prevent apprehended breach of the peace, orders to bind down persons who are a danger to the maintenance of peace and

order, or orders aimed at preventing vagrancy are contemplated to be passed.”

The facts of the present case are totally distinct from the case cited wherein the Chief Secretary to the Govt. of Haryana in the exercise of his powers under the Lokayukta Act, 2002 made a reference to the Lokayukta to interfere into the allegations of bribery and in support thereof certain compact discs and related material were submitted along with the complaint. The Lokayukta entertained the complaint to issue notice to the person intended to be proceeded against to seek his explanation. During the process two persons allegedly conducted a sting operation and filed affidavits before the Lokayukta. The CD was got examined by the Lokayukta and the process went on. Whereafter the Lokayukta thought it to be a fit case to recommend for registration of FIR. This order of the Lokayukta was challenged by way of writ proceedings where the learned Single Judge ruled that if there was any other material or information of corrupt practice against the writ petitioner, the State would be at liberty to carry out the investigation as per law, resulting in the filing of Letters Patent Appeal. Clearly the appeal resulted from exercise of writ jurisdiction by the learned Judge. There would thus be no quarrel with the issue of appropriate remedy being the Letters Patent Appeal. The entire judgment does not indicate that if criminal jurisdiction under Section 482 Cr.P.C. is initiated that per se would entitle the appellant to avail the remedy of Letters Patent in the event of an order affecting his liberty. We notice that the learned Single Judge

has passed the orders in the given set of circumstances where the appellant has been declared a proclaimed Offender and in petition for quashing of the proceedings the learned Single Judge directed the learned trial Court to release the appellant on bail in terms of the conditions contained in the order. It is thus an exercise of his inherent jurisdiction by the learned Single Judge who while commencing upon the proceedings under Section 482 Cr.P.C. has ventured to direct bail and in his wisdom placed a condition thereon. It is a settled proposition of law that any court exercising its jurisdiction under Sections 482, 438 and 439 Cr.P.C. would be entitled to impose any condition while granting an equitable concession of bail. This ipso facto would not mean that it would be a curtailment of liberty and violative of his fundamental right because the court has the power to mould the equitable relief in the manner it may choose, upon its subjective satisfaction derived from the facts of a case. We are thus of the opinion that the Letters Patent Appeal is a remedy ill-conceived and unavailable to the appellant and for the very same reason we decline interference on the ground of non-maintainability of LPA.

Appeal dismissed.

(MAHESH GROVER)  
JUDGE

27.04.2017  
dss

(SHEKHER DHAWAN)  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |