

126.

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

CRM-M-38914-2018

Date of decision:05.10.2018.

RAJNEESH MITTAL

... Petitioner

versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Piyush Kant Jain, Advocate,
for the petitioner.

Mr.Rana Harjasdeep Singh, DAG, Punjab.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for permission to travel abroad (USA) for urgent business purposes during the intervening period of 01.11.2018 to 31.12.2018. Prayer has also been made to quash the order dated 25.07.2018 (Annexure P-3) passed by learned Additional Sessions Judge, Ludhiana whereby permission to go abroad was declined.

An FIR No.122 dated 28.04.2017 under Section 370 IPC, Sections 23, 24 and 26 of Juvenile Justice (Care & Protection of Children) Act, 2000 and Sections 16, 17, 18, 19 and 20 of Bonded Labour System (Abolition) Act, 1976 was registered against the petitioner in Police Station Jodhewal, Ludhiana. The allegation is that in the factory owned by the petitioner i.e. Kaursun Export Limited, 9 children doing labour were got released by the society known as Bachpan Bachao Andolan. Though the

the charges under Section 370 IPC and Sections 23, 24, 26, 17 & 20 of Juvenile Justice (Care and Protection of Children) Act, 2000.

Learned counsel for the petitioner has argued that in order to perform his business commitments, petitioner is required to go abroad (USA). He is to visit his buyer, namely, United Speciality Products INC, New York in USA during the period from 01.11.2018 to 31.12.2018. He has further argued that the petitioner is ready to comply with any condition which this Hon'ble Court may deem fit as there is no intention on the part of the petitioner to flee away from trial. Though stay in abroad is required for four weeks, but as a precautionary measure, he has prayed for grant of permission to visit between the period from 01.11.2018 to 31.12.2018.

On the other hand, learned State counsel has argued that apart from the fact that the allegations against the petitioner are serious, there is every possibility that he may not return to India, jeopardizing the very trial.

I have heard learned counsel for the parties.

Though a similar prayer was made before the trial Court, but the trial Court vide order dated 25.07.2018 (Annexure P-3) has declined the prayer on the ground that the earlier application filed by the petitioner to go abroad was dismissed vide order dated 08.11.2017 and thereafter, the petitioner has made another unsuccessful attempt for similar permission so as to go abroad. What had weighed on the mind of the trial Court is the repeated request of the petitioner to go abroad and denial thereof.

Similar plea to go abroad during the pendency of proceedings before the trial Court has been considered by this Court in **Ms. Urvi Agarwal Versus State of Haryana** in **CRM-M No.17854 of 2015 dated**

Apex Court in **Srichand P. Hinduja Versus State through CBI, New Delhi-2002(3) RCR (Criminal) 186** wherein the Hon'ble Supreme Court had permitted the appellant-therein, as an interim measure, to go abroad by laying down certain conditions including execution of a bond with a bank guarantee and it was ordered that the appellant-therein shall remain present before the Special Judge as and when their presence is needed. A rider was also imposed that in case there is any violation of the conditions, it would be open to the Court to pass an appropriate order for cancellation of bail of the appellant and this interim measure was specified upto a particular date.

Similarly, in **Arun Kapoor Versus State of Haryana-2004(4) RCR (Criminal) 594**, this Court has considered the prayer for release of passport, as the petitioner-therein had to go abroad in connection with the business of the company. An application was moved before the trial Court for release of passport, but the same was declined. Even the criminal revision petition filed against the order passed by the Magistrate was also dismissed. However, this Court, on a petition filed under Section 482 Cr.P.C., while relying upon the case of **Srichand P. Hinduja's case (supra)** has observed as under:-

“10. It is not in dispute that the petitioners are having business commitments to fulfill and they have to go abroad for business dealings. It is also not in dispute that the petitioners do go abroad for business dealings. It is also not in dispute that contracts have to be procured from abroad to carry out the work here. Besides, the petitioners had earlier also gone abroad in terms of the permission granted by this Court on 1.8.2003 and they have returned and re-deposited their passports.

11. The Hon'ble Supreme Court in **Srichand P. Hinduja v. State through C.B.I., New Delhi, 2002(3) RCR (Crl.) 186 (SC): AIR 2002 Supreme Court 410** granted permission to go abroad to the accused in the said case. The case related to offences punishable under Sections 120-B and 420 Indian Penal Code as also under Section 5(2) read with Section 5(1)(d) of the Prevention of Corruption Act. In the said case also, a plea was raised that if the appellants therein were permitted to go abroad, it would affect the smooth progress of the trial and there are reasonable grounds to believe that they would not return back to India to face the trial. It was noticed, that the appellants therein were Indian Nationals at the time of registration of the FIR and thereafter they had acquired British and Swiss Nationalities. The Hon'ble Supreme Court, after considering the facts and circumstances of the case as an interim measure allowed the accused therein to go abroad subject to their furnishing adequate sureties.

12. This Court in **Brij Bhushan Singal v. Central Bureau of Investigation, 1994(3) RCR (Crl.) 498 (P&H)** which is a case where the Special Judge granted bail to accused therein but impounded his passport to prevent him from going abroad, held that it was competent to review the order under Section 482 Criminal Procedure Code and order released of the passport. Accordingly, the accused therein was permitted to go abroad and then return within four months subject to his furnishing security in the sum of Rs.25 lacs."

Considering the nature of business being carried out by the petitioner and at the same time in order to avoid any apprehension as put forward by the learned State counsel, present petition is allowed to the extent

from 01.11.2018 to 31.12.2018, for which, he shall furnish a bank guarantee of an amount of Rs.15 lakhs before the trial Court. At the same time, the trial Court may further impose any other condition which it may deem fit and proper in the peculiar facts and circumstances of the case. It is made clear that after returning to India, petitioner shall report to the trial Court within 10 days from his arrival. Petitioner shall also furnish an affidavit that he shall not raise any objection if the proceedings are conducted at his back, of course in the presence of his counsel.

Accordingly, present petition is allowed and the impugned order dated 25.07.2018 passed by learned Additional Sessions Judge, Ludhiana (Annexure P-3), is set aside.

(HARI PAL VERMA)
JUDGE

05.10.2018
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No