

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-18923-2019 (O&M)

Date of Decision:- 21.5.2019

Gurcharan Singh Gill

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Kanwaljit Singh, Senior Advocate with
Mr. Abhishek Bajaj, Advocate, for the petitioner.

Ms. Rashmi Attri, AAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court challenging order dated 9.4.2019 passed by learned Additional Sessions Judge, Ferozepur whereby revision against order dated 7.3.2019 passed by learned Sub Divisional Judicial Magistrate, Zira, has been dismissed.
2. Few facts necessary to notice for disposal of this petition are that the petitioner against whom FIR No. 106, dated 16.5.2017, at Police Station Sadar, Zira, under Sections 420, 467, 468, 471 IPC, has been registered which is still under investigation, had moved an application before the Court of learned Sub Divisional Judicial Magistrate, Zira, seeking permission to go abroad from February, 2019 to June, 2019, mainly on the ground that in order to maintain

his permanent residency in Canada, he is required to spend some time in Canada. It is further the case of the petitioner that he is aged 77 years and is a retired Superintendent Engineer, who has retired from PSEB and owns substantial property in Punjab. The aforesaid application was however, declined by the learned Sub Divisional Judicial Magistrate, Zira, vide order dated 7.3.2019 while observing that the offences are serious in nature and that there are allegations of forgery and fabrication against the petitioner and that there is likelihood that the applicant may not return back to India in case he is granted permission to go abroad.

3. The revision petition filed by the petitioner challenging order dated 7.3.2019 was dismissed by learned Additional Sessions Judge, Ferozepur while observing that the revision being interlocutory order, the revision was not maintainable.
4. Learned counsel for the petitioner has submitted that he has substantial assets in India and owns agricultural land as well as residential house and that he is required to go to Canada only for the purpose of maintaining his permanent residency status and that he definitely intends to return back to India after spending about 3 months.
5. Learned State counsel has however, opposed the petition on the ground that there is apprehension that the petitioner may not return back to India in case he is granted permission. It has however been informed that although cancellation report had been filed earlier but

the trial Court had directed for conducting further investigation as the complainant did not agree with the cancellation report.

5. I have considered rival submissions addressed before this court. The matter is virtually at the investigation stage as the cancellation report filed earlier has been returned back. However, there is nothing to suggest that there is apprehension of petitioner fleeing away. The petitioner who is stated to be having immovable assets in India and is a retired Superintending Engineer, seeks permission to go abroad mainly in order to maintain his permanent residency status in Canada. Having regard to facts and circumstances of the case, this Court is of the opinion that petitioner can be granted permission to go abroad while ensuring that he returns back to India in time. In order to ensure that the petitioner returns back some stringent conditions can be imposed. Accordingly, the petition is accepted. The impugned orders dated 9.4.2019 passed by learned Additional Sessions Judge, Ferozepur as well as order dated 7.3.2019 passed by learned Sub Divisional Judicial Magistrate, Zira are hereby set aside.
6. The petitioner is permitted to visit Canada for a period of 3 months w.e.f. 1.6.2019 onwards subject to the following conditions:
 1. that the petitioner shall not indulge in any anti-social activity while visiting Canada;
 2. that the petitioner shall upon his return inform the Investigating Officer/Court concerned about his

having returned India back and join the proceedings of the case;

3. that he shall furnish a bank guarantee for an amount of ₹ 5 lacs and also a surety to the amount of ₹ 50 lacs, which in case of violation of any of the aforestated condition shall stand forfeited.

May 21, 2019
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No