

S.No.288

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

CRM-M-27166 of 2019 (O&M)

Date of Decision:25.07.2019

Chandni GuptaPetitioner

Vs.

State of PunjabRespondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Sandeep Kumar, Advocate
for the petitioner.

Ms. Amarjeet Kaur Khurana, DAG,
Punjab.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner under Section 482 Cr.P.C for setting aside the order dated 12.06.2019 passed by the learned Chief Judicial Magistrate (NRI Cases), Jalandhar in case FIR No.101, dated 30.05.2018 registered under Sections 406, 420, 120-B IPC and Section 12 in the Passports Act, 1967 and Section 13 of Punjab Travel Professionals Regulation Act, 2014, at Police Station Division No.6, District Jalandhar, whereby the prayer of the petitioner for grant of permission to go abroad, Singapore for a period of one year has been rejected.

The facts leading to the present case are that the petitioner was alleged to have been running travel agency/IELTS Coaching Centre as well as other consultancy services; without licence from the competent authorities. Although there were no complaints as such, from the general public, however, the Police on its own is stated to have conducted a raid at the premises of the petitioner; asserting that from a secret information, the Police had come to know that the said activity/business was being

conducted by the petitioner in an illegal manner.

The petitioner was earlier granted anticipatory bail in this case. However, for a long time, she did not furnish the bail bonds. Another factor which deserve to be noted is that earlier also, twice the petitioner was permitted to go abroad for specified durations. After availing that concession of foreign travel, the petitioner had appeared before the trial Court.

The petitioner again filed application before the trial Court for permission to travel abroad for a period of one year with a pleading that she is having an employment in Singapore. Her husband is also residing in Singapore. Because of the job requirements, she is required to attend the office of employment at Singapore within a specified time and for a particular minimum duration. However, that application has been declined by the trial Court vide the impugned order.

Counsel for the petitioner has submitted that the petitioner has already shown her bonafides by returning from abroad to attend the Court; after availing the concession of foreign travel. This time also, the petitioner undertakes to attend the Court, as and when she is directed by the trial Court. However, if the petitioner is not required to appear before the trial Court for any specific purpose, the petitioner could be permitted to travel abroad for a specified period, preferably for a period of one year. It is further submitted that although the trial Court has recorded in the order, while dismissing the application, that the petitioner had not furnished any surety/ bonds despite having been granted anticipatory bail, however, now the petitioner has furnished the bonds. As of today, she is already

under the bonds; as required by the trial Court. It is also submitted that the petitioner is under compulsion to travel because of a job requirement, as well as because of the fact that her husband is also residing in Singapore. However, the trial Court has recorded that since the charge has not been framed, therefore, the petitioner cannot be permitted to travel abroad; lest the trial should be delayed anymore. In this regard, counsel for the petitioner has submitted that framing of the charge is not delayed because of the petitioner. Rather, there are about 26 accused in the case. Therefore, framing of the charge is being delayed only because some of the co-accused are not appearing before the trial Court and the PO proceedings have already been initiated against them. So far as the petitioner is concerned, it is submitted by counsel for the petitioner that; the petitioner undertakes to appear on any specified date even on a short notice of about a week. The petitioner would instruct her counsel to inform her and she would appear before the trial Court even on a notice of one week, to receive the order of framing of charge, if any. It is also submitted that the petitioner is ready to furnish an undertaking that if the trial Court undertakes any proceedings in her absence, but in the presence of her counsel, she would not have any objection to such proceedings. Still further, it is submitted that father of the petitioner is still residing in India and having sufficient properties, which the Court can bound down to ensure the presence of the petitioner, in case of any doubt. The father of the petitioner would even furnish a list of properties before the trial Court for this purpose and would stand as an additional security.

On the other hand, learned State Counsel has filed reply by way

of affidavit of Deputy Commissioner of Police (Investigation) Jalandhar, in which the allegations mentioned in the FIR are repeated. However, it is also highlighted that the charge has not been framed so far. Therefore, if at this stage, the petitioner is permitted to travel abroad, that would delay the trial for indefinite period. Hence, the petitioner does not deserve to be permitted to travel abroad.

Having heard learned counsel for the parties and having perused the case file, this Court finds substance in the argument of the learned counsel for the petitioner. No doubt, the trial of the case has not started because of the non-appearance of all the accused. However, prima-facie, the petitioner does not appear to be much responsible for this delay. It has also come on record that earlier also, the Court had permitted the petitioner to go abroad for specified durations and the petitioner had honored her undertaking and the Court order and, accordingly, she had come back to join the proceedings before the Court. Therefore, as of today, there is nothing on record to doubt the bona-fides of the petitioner; as such.

Otherwise also, the petitioner has shown her readiness and willingness to furnish sufficient sureties including that of his father, for coming back; in case the Court so requires. Additionally, the petitioner has also expressed undertaking before this Court that she would be ready to appear before the trial Court at any time, even on a notice of one week's time. Still further, the petitioner has also submitted that she would file undertaking before the trial Court that she would not have any objection to the proceedings undertaken by the trial Court in her absence, in case the counsel for the petitioner is present before the Court.

The prayer of the petitioner is also supported by the fact that in the present case, there is no complaint from the public alleging any wrong doing on behalf of the petitioner. This is stated to be a case initiated by the Police on the alleged secret information that the petitioner was not having licence from the competent authority. But it has also come on record that at the relevant time, the petitioner had already applied before the authorities for the said licence.

In view of the above, this Court finds that it would not be unjustified if the petitioner is permitted to travel abroad for a specified time period, subject to the petitioner's furnishing the undertaking/ bonds as deemed fit by the trial Court, and as submitted by the petitioner hereinabove before this Court.

Accordingly, the order passed by the trial Court is set aside. The petitioner is granted permission to go abroad for a period of six months, subject to her furnishing sureties to the satisfaction of the trial Court and/or as submitted by the petitioner hereinabove.

Disposed of.

July 25, 2019

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(RAJBIR SEHRAWAT)

JUDGE

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No