

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

**Criminal Misc. No.31936 of 2019 in/and
Criminal Misc. No.M-34660 of 2019 (O&M)
Date of Decision: October 18, 2019**

Narinder Kumar

.....PETITIONER(s).

VERSUS

State of Punjab

...RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Manvinder Singh Sidhu, Advocate
for the applicant-petitioner (s).

Mr. Avtar Singh Sandhu, Addl. A.G. Punjab.

SURINDER GUPTA, J.
CRM-31936-2019

Heard.

Learned counsel for the petitioner submits that the passport of the petitioner, who is a complainant in case bearing FIR No.40 dated 10.09.2014 registered at Police Station Airport, Amritsar, was taken in possession by the police. The passport was produced with challan and the accused have since been convicted and they have filed appeal, which is pending before the Court of Sessions. The petitioner has to go to Canada along with his parents and moved an application for return of his passport, which was declined by learned Additional Sessions Judge on the ground that appeal against the judgment of conviction is pending. Main petition filed by the petitioner is fixed for 22.01.2020. The same may be preponed as parents of petitioner have already been allowed visa for visiting Canada but the petitioner could not accompany them as his passport is attached with the

Court file.

In view of submission of learned counsel for the petitioner, main petition, which is fixed for 20.01.2020 is preponed and taken up today itself for hearing.

CRM-M-34660-2019

Learned State counsel has no objection if the passport of petitioner is returned to him and a copy of the same be kept in the Court file.

Trial of the accused in the aforesaid case has resulted in their conviction and the appeal is pending. Mere fact that appeal is pending, is no reason to decline the petitioner-complainant return of his original passport, which is on the court file for the last about five years. Even trial Court was competent to return passport of complainant/accused to facilitate his travel abroad on such terms, it deemed fit. Learned Appellate Court has not applied mind while declining application of petitioner, who requires no permission of Court to go abroad, by refusing to return his passport. In this manner, he has been prevented to exercise his right to go abroad.

Original passport of petitioner could be returned after keeping a copy of the same on file. If at any stage, original passport is required, petitioner can be asked to produce the same as and when so ordered.

In view of the above fact, this petition is allowed. Impugned order passed by learned Additional Sessions Judge is set aside with direction to return the original passport of the petitioner to him on retaining a copy of the same on the court file.

October 18, 2019

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No