

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

CRM-M-61563-2018 (O&M)

Date of Decision:-11.1.2019

Devinder Sandhu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Puneet Bali, Senior Advocate with
Mr. Vibhav Jain, Advocate for the petitioner.

Ms. Ruchika Sabherwal, Assistant Advocate General, Punjab.

Mr. Vipul Joshi, Advocate for the complainant.

GURVINDER SINGH GILL, J.(Oral)

The petitioner has approached this Court challenging order dated 14.12.2018 whereby the learned Additional Sessions Judge, Amritsar has declined his application seeking permission to go abroad for a period of about two months w.e.f. 25.12.2018 to 24.2.2019.

The learned counsel for the petitioner submits that the petitioner is a successful businessman whose family is settled in Chandigarh since the last more than two decades and that he being a Director of WWICS group, which is one of the India's largest immigration consultancy company, is required to visit various countries in connection with business. The learned counsel has further submitted that in fact on an earlier occasion also the petitioner had been granted permission to go abroad vide order dated 8.6.2018 passed by the learned trial Court and pursuant thereto he had gone abroad and had returned back within the stipulated time and that in these circumstances it cannot be said that he has any intention to flee from justice.

The learned counsel for the petitioner has further submitted that the ground which weighed with the trial Court for declining his application was that the matter is now fixed for recording prosecution evidence and that the trial would be hampered.

Reply by way of affidavit of Sh. Sarbjit Singh, PPS, Assistant Commissioner of Police, North, Amritsar City on behalf of respondent-State has been filed by learned State counsel today in Court, which is taken on record.

Opposing the petition, the learned State counsel assisted by the learned counsel for the complainant, has submitted that the matter is now fixed before the trial Court on 15.1.2019 for recording prosecution evidence and that in case the petitioner is permitted to go abroad at this stage for a period of two months, the progress of trial would be seriously affected.

Having considered rival submissions addressed before this Court, I find that the very fact that the petitioner had earlier been granted permission to go abroad and after availing of the concession to go abroad had returned back well in time is indicative of the fact that there is no likelihood of the petitioner fleeing from justice. The fact that the matter is fixed for recording prosecution evidence can well be taken care of by imposing some conditions. The petition, as such, is allowed subject to the following conditions:-

1. that the petitioner shall furnish an undertaking before the trial Court to the effect that he shall ensure that the counsel appearing on his behalf duly cross-examines the witnesses even in his absence and that he shall have no objection for the same;

2. that the petitioner shall not dispute his identity under any circumstances;
3. that the petitioner shall not indulge in any anti-social activity while visiting the countries he intends to visit;
4. that the petitioner after visiting abroad shall positively return back and surrender back his passport by 7.3.2019.

The petitioner shall undertake that he shall comply with all the aforesaid conditions as well as any other condition as may be imposed by the trial Court, failing which he shall be burdened with a penalty which may extend to the tune of ₹50 lacs.

The aforesaid permission is being granted subject to the condition that the petitioner furnishes a bank guarantee to the tune of ₹50 lacs before the trial Court.

The trial Court would be at liberty to impose any other condition as deemed fit so as to ensure that proceeding of the trial are not stalled under any circumstances on account of absence of petitioner.

The present petition stands accepted in above mentioned terms. The order dated 14.12.2018 passed by learned Additional Sessions Judge, Amritsar is consequently set aside.

The trial Court shall do the needful for returning back the passport to the petitioner after the aforesaid undertaking is furnished and accepted.

11.1.2019

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No