

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

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CRM-M-8954-2020

Date of decision: 06.03.2020

Kulbir Kaur and another

.....Petitioners

Versus

Parminder Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Baltej Singh Sidhu, Advocate
for the petitioner.

Mr. Sylvester, Advocate
for Mr. Sandeep S. Majithia, Advocate
for respondent No. 1

Mr. Arun Kaundal, D.A.G., Punjab
for respondent No. 2

The petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of order dated 20.02.2020 passed by learned Judicial Magistrate, 1st Class, Amritsar in Criminal Complaint No. 64 of 2007/2010 titled as Parminder Singh versus Kulbir Kaur and others whereby application filed by the petitioners for permission to go to Canada has been rejected.

Respondent No. 1/complainant filed criminal complaint No.64 dated 01.02.2007/02.11.2010 against the petitioners under Sections 120-B, 420, 465, 467, 468, 471 and 511 of the Indian Penal Code, 1860. The said complaint was dismissed vide order dated 07.09.2013 passed by the learned Judicial Magistrate First Class, Amritsar. Feeling aggrieved, respondent No. 1 filed revision which was

allowed by the learned Additional Sessions Judge, Amritsar vide order dated 18.02.2015 whereby the matter was remanded back to the learned trial Court with a direction to pass fresh order on framing of charge after hearing learned Counsel for the parties. The petitioners filed CRM-M-8958-2015 before this Court challenging the aforesaid remand order.

The petitioners filed application dated 20.01.2020 before the learned Judicial Magistrate First Class, Amritsar for grant of permission to go Canada to attend the marriage of Keeret Mann, daughter of younger brother of Navtej Singh Mann petitioner No. 2 with Vijay Pal Singh Dhillon son of Balraj Singh to be performed on March 28, 2020 as per Sikh rites at Gurudwara Khalsa Diwan Society, Surrey, B.C., Canada. The said application was dismissed by Judicial Magistrate First Class, Amritsar vide order dated 20.02.2020 and the relevant part of the same reads as under :-

“ I have perused the file carefully and after perusing the file I am of the considered opinion that the present application of the applicant cannot be allowed as from the perusal of the file it has been transpired that in the present case in question the applicant has been granted bail vide order dated 26.11.2011 whereby they have been granted bail subject to surrender their passport and even despite the said order passed by the learned Predecessor Court, the applicants failed to furnish any undertaking regarding submitting the passport and even have not complied the orders of Learned Predecessor Court which clearly shows the conduct of the applicant. So, in view of the facts mentioned above, the present application of the applicant cannot be allowed, hence dismissed and further directions are given to the applicant to submit their passport within 15 days in the Court. Present application is ordered to be attached with main file. ”

Feeling aggrieved, the petitioners have filed the present

petition.

Learned Counsel for the petitioners has submitted that the petitioners want to go abroad for attending the marriage ceremony of Keerat Mann, who is daughter of younger brother of petitioner No. 2- Navtej Singh Mann. The petitioners have got booked the air tickets and they have to leave on 12.03.2020 and will return on 05.05.2020. Presence of the petitioners at the time of marriage is necessary due to petitioner No. 2 being elder brother and petitioner No. 1 being wife of petitioner No. 2 who are living in joint family and are mediators in the marriage. Earlier also the petitioners went to Canada on 07.08.2012 and returned to 31.08.2020. On 27.07.2014, petitioner No. 2 went to Canada and returned on 23.08.2014. The petitioners have huge agricultural, residential and commercial properties in District Amritsar and there is no likelihood of their absconding. The complaint filed against the petitioners has been dismissed and the matter has been remitted back for decision afresh. The petitioners have never misused the concession of bail. The petitioners will not abscond and are ready to abide by the terms and conditions. Therefore, the petitioners may be granted permission to go abroad.

Learned State Counsel and learned Counsel for the complainant have argued that complaint is pending against the petitioners and the petitioners are likely to abscond. Therefore the application may be dismissed.

In ***Utkarsh Pahwa Vs. Assistant Director (PMLA), Directorate of Enforcement : 2019(1) Law Herald 870*** Coordinate

Bench of this Court observed as under:-

“The law governing the question of grant of permission to the petitioner for travelling abroad during the pendency of the trial has been elaborately discussed by this Court in authority of *Paramjit Kaur v. State of Punjab's* case (supra) in which reliance was placed on *Srichand P. Hinduja v. State through CBI, New Delhi 2002(3) RCR (Criminal) 186 (SC)*, *Arun Kapoor v. State of Haryana 2004(4) RCR (Criminal) 594 (P&H)*, *Brij Bhushan Singal v. Central Bureau of Investigation 1994(3) RCR (Crl.) 498 (P&H)*, *Anjal Kumar @ Angel Kumar v. State of Punjab 2010(1) RCR (Criminal) 201* and *Naginder Singh Rana v. State of Punjab 2004(3) RCR (Criminal) 912* and on the basis of the said authoritative pronouncements of the Hon'ble Apex Court and this Court, it can be safely concluded that in normal circumstances, permission can be granted to the petitioner to travel abroad being his fundamental right to travel abroad, but the conditions are to be imposed for regulating and securing his presence during the trial.”

The observations regarding grant of permission to travel abroad during pendency of trial will also be applicable for grant of such permission during pendency of revision petition.

The petitioners wants to go abroad for attending the marriage ceremony of Keeret Mann, who is daughter of younger brother of petitioner No. 2 and their presence at the time of marriage is necessary due to petitioner No. 2 being elder brother and petitioner No. 1 being wife of petitioner No. 2 who are living in joint family and are mediators in the marriage.

In view of the facts and circumstances of the case, and observations made by Coordinate Bench *Utkarsh Pahwa's Case*

(*Supra*), the application for permission to go to Canada is allowed and the petitioners are allowed to go to Canada from 11.03.2020 to 10.05.2020 subject to the condition that the petitioners will (i) either submit personal bonds in the sum of Rs.10,00,000/- each and deposit title deed of their immovable properties of the value of not less than Rs.10,00,000/- (Rs. Ten Lakhs only) each to the satisfaction of Chief Judicial Magistrate, Amritsar (ii) or deposit FDR in the amount of Rs.2,00,000/- in the name of the Chief Judicial Magistrate, Amritsar, undertaking to return to India on expiry of the period and not to seek any extension and submit copy of their passport in support of their visit. In case of default the amount of personal bonds shall be liable to be realized by attachment and sale of such immovable properties or the amount of FDR shall be liable to be forfeited as the case may be.

06.03.2020

kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No