

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

CRM-M-13956-2020

Date of decision:-4.6.2020

Sandeep Kaur

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.P.S. Ahluwalia, Advocate
for the petitioner.

Ms.Monika Jalota, DAG, Punjab.

Mr.Vivek K. Thakur, Advocate
for respondent No.2.

H.S. MADAAN, J.

Case taken up through video conferencing.

By way of filing the present petition under Section 482 Cr.P.C., petitioner – Sandeep Kaur prays for quashing of order dated 13.5.2020 passed by Chief Judicial Magistrate, Kapurthala in case FIR No.267 dated 17.9.2019 for the offences under Sections 406 and 498-A IPC, registered at Police Station City, Kapurthala, vide which accused/respondent No.2 - Arti Taunk has been allowed to travel abroad as well as order dated 25.5.2020 passed by Additional Sessions Judge, Kapurthala vide which the revision petition filed by petitioner, who is complainant in the FIR, against the order passed by Chief Judicial

Magistrate, Kapurthala was dismissed.

Briefly stated, the facts of the case are that FIR in question was initially registered against the husband and mother-in-law of complainant Sandeep Kaur, who is petitioner before this Court. Later on her father-in-law and sister-in-law i.e. Arti Taunk were also impleaded as accused by the complainant. Accused Arti Taunk was newly married staying at her in-laws house at Hoshiarpur. Her husband is staying in Canada. She had prayed for grant of pre-arrest bail, which was allowed to her by learned Sessions Judge, Kapurthala. The challan had been filed in the case. Accused Arti Taunk had moved an application seeking permission to go abroad to join company of her husband, who was staying alone in Canada. She gave an undertaking that she would not dispute her identity and prayed that her presence be dispensed with and necessary permission be granted to her. The application was opposed by the complainant vehemently. However, learned Chief Judicial Magistrate, Kapurthala accepted that application vide a detailed order dated 13.5.2020. The operative part of the same for ready reference is being reproduced as under:

5. It is important to mention here that this application for going abroad was moved in the Court on 20.02.2020, whereupon applicant has requested to grant permission to go abroad for six months. The applicant has placed on record VISA of Canada which has been granted to her, the same was granted on 12.02.2020 and is valid till 15.07.2020. Thereafter, the pandemic situation has arisen and there had been lockdown in the entire country. So, the matter has been adjourned in routine but now the file has been taken up on the application for early hearing which has been given by Ld.Counsel for the applicant/accused. Thereafter, in the meantime, challan i.e. report under Section 173

Cr.P.C. has been presented on 15.04.2020 against the applicant also. Perusal of file reveals that the applicant had been granted anticipatory bail by Ld.Sessions Judge vide order dated 23.01.2020, but no specific condition has been imposed in said order.

6. After hearing arguments of both the parties and going through the record, this Court has observed that in such an eventuality, where applicant is newly wedded lady and her husband is residing in Canada, it would be injustice to applicant to deny her right to company of her husband. This Court has further observed that the lockdown situation is going on due to COVID-19 and challan has been presented in the absence of the accused. At present, personal attendance of the applicant/accused is not required in the Court. Moreover, VISA of the applicant is uptill 15.07.2020. This Court is further of the opinion that no injustice is going to be caused to the complainant in case the application in hand is allowed. Perusal of reply to the application reveals that details has been given regarding incidents occurred with the complainant and even during arguments, Ld.Counsel for complainant through Video conference as well as complainant present in person in Court have argued at length about the role of present applicant in commission of offence. This Court has observed that at present, this Court is not disposing the main case on merits, in which, the role of the applicant/accused has to be considered or seen. So, this Court is not deciding anything on merits, therefore, these arguments are not maintainable here.

7. Further keeping in view the above-said observations, facts and circumstances as mentioned in the application, the same is, hereby allowed with the following conditions:

1. The applicant/accused shall furnish bank guarantee in the name of Court in the sum of Rs.5 lakhs;
2. The necessary permission is granted for period of 04 months from today and the bank guarantee which shall be furnished by the applicant shall be forfeited in case the applicant does not turn up on the end of period granted to

her;

3. That the applicant is directed to inform the Court about the date when she intends to return;

4. That she will not dispute her identity;

5. That she will give an undertaking in the shape of affidavit to the effect that she will not get the period extended for which, permission has been granted to her;

6. That she will furnish the bail bonds in the pursuance of order passed by the Ld.Sessions Judge, Kapurthala regarding her bail in the Court.

This application stands disposed of, accordingly.

The order was challenged by the complainant before the Court of Sessions by filing a revision petition, which was assigned to Additional Sessions Judge, Kapurthala but the said revision petition was dismissed by learned Additional Sessions Judge, Kapurthala vide order dated 25.5.2020 and the order passed by Chief Judicial Magistrate, Kapurthala was upheld.

Still feeling aggrieved the complainant has approached this Court by moving the instant petition, which is being resisted by learned State counsel and counsel for the respondent No.2.

I have heard learned counsel for the parties besides going through the record.

Section 482 Cr.P.C. deals with inherent powers of the High Court providing that nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

I find that the impugned orders do not call for any interference by this Court since they do not appear to be suffering from any illegality or infirmity. As regards the apprehension expressed by learned counsel for the petitioner that respondent No.2 - Arti Taunk is going on a permanent visa and there are little chances of her return, I do not find much force in this contention since adequate terms and conditions have been imposed by Chief Judicial Magistrate, Kapurthala to ensure that she returns after a period of four months for which the permission had been granted to her.

Learned counsel for the petitioner has further contended that respondent No.2 – Arti Taunk accused be asked to furnish bank guarantee for an amount higher than Rs.5 lakhs, which has been so directed by Chief Judicial Magistrate, Kapurthala. But I find that keeping in view the facts and circumstances of the case, this amount is sufficient and adequate.

Thus, I do not see any reason to revoke the permission granted by the Courts below to respondent No.2/accused – Arti Taunk to go abroad for a period of four months on terms and conditions detailed in the order of Chief Judicial Magistrate, Kapurthala.

The petition being without merit stands dismissed accordingly.

(H.S.MADAAN)
JUDGE

4.6.2020
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No