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

CWP No.13578 of 2021(O&M)

Date of Decision:09.11.2021

Randeep Singh

.....Petitioner

Vs

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Abhinav Gupta, Advocate
for the petitioner.

Ms. Ambika Bedi, AAG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner has preferred this petition for issuance of an appropriate writ especially in the nature of mandamus, directing the official respondents No.2 and 3 to grant police clearance certificate to the petitioner in view of his status in FIR No.25 dated 06.03.2017 under Sections 406, 420 IPC at Police Station Raikot, District Ludhiana.

Learned counsel for the petitioner submits that the aforesaid FIR has been registered against the petitioner and six other accused at the instance of complainants Amrik Singh and Harpreet Singh. On a representation filed by brother of the

petitioner before SSP, Ludhiana (Rural), inquiry was got conducted through DSP, Raikot on the direction of SSP, Ludhiana (Rural) and the petitioner was found to be innocent vide inquiry report dated 14.07.2017. Thereafter, during investigation of the FIR also, the petitioner was found to be innocent. Report under Section 173 Cr.P.C was prepared and was presented before the trial Court, wherein name of the petitioner was placed in column No.2 of the challan.

After being declared innocent, the petitioner went to Australia on spouse *visa* as his wife was granted study *visa* by the Australian Government. After completion of her studies in Australia in the year 2020, the petitioner and his wife applied for temporary resident *visa* in the month of April 2021.

For the aforesaid purpose, police clearance certificate was needed as the same was sought by Australian Embassy. For procuring the said certificate, the petitioner applied to the Indian Embassy at Adelaide on 21.05.2021. The needful was not done and the period of three weeks expired on 20.06.2021. With this background, the petitioner has filed this petition for grant of police clearance certificate, so as to pursue his temporary resident *visa* in Australia.

Notice of motion was issued on 26.07.2021. During pendency of the present petition, a passport verification report

has been prepared and the same has been attached along with the short reply filed by way of affidavit of Mr. Rajesh Kumar Chhibber, Deputy Superintendent of Police, Circle Nabha on behalf of respondents No.1 to 3. Copy of the said police clearance certificate has also been sent directly to Australian Embassy in compliance of order dated 08.09.2021.

Perusal of Annexure R-1 attached with the reply would show that the respondents have shown the status of the petitioner viz-a-viz the FIR and pending application under Section 319 Cr.P.C.

The grievance of the petitioner is that the petitioner has been found to be innocent. He has not been summoned as an additional accused so far. The recital of pending application in the context of police clearance certificate is not at all required as the same may create hurdle for acquiring temporary resident *visa* in Australia.

Learned counsel for the petitioner places reliance upon **CWP No.8990 of 2020** titled **Pooja Likhi Vs. State of Punjab and others** decided on 15.10.2020 to contend that pending application under Section 319 Cr.PC would not be sufficient to draw any inference against the petitioner, so as to incorporate the same in police clearance certificate, rather the said reason cannot be held to be sufficient reason for withholding the police

clearance certificate in any manner. The pendency of application under Section 319 Cr.P.C cannot draw any inference on the petitioner being an accused in the present case in the absence of any summoning order passed thereupon till date. As on date, the petitioner cannot be said to be an accused in the pending trial. Learned counsel also refers to **CWP No.4232 of 2019** titled **Gurpreet Kaur Dhaliwal Vs. State of Punjab and others** decided on 13.03.2019 and **CWP No.565 of 2017** titled **Kanwaljit Singh Swani Vs. SSP UT Chandigarh and others** decided on 27.02.2017 in this regard.

Learned counsel further submits that in case, the petitioner is ultimately summoned under Section 319 Cr.P.C, then in such eventuality, he would surrender before the trial Court within the time prescribed, for which he is ready and willing to execute heavy local surety.

On 03.11.2021, learned State counsel sought time to cite some case law to the contrary as relied by the learned counsel for the petitioner. No contrary precedent has been cited by the learned State counsel.

In view of aforesaid factual position, I deem it appropriate to direct respondents No.2 and 3 to issue fresh police clearance certificate as per ratio laid down in **Pooja Likhi's case (supra)** within a period of one month from today

subject to executing heavy local surety bonds by the petitioner through his counsel to the satisfaction of the trial Court.

Disposed of.

09.11.2921

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No