IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-34823-2021 (O&M)

Date of Decision: 31.08.2021

Utkarshh Pahwa

...Petitioner

Versus

Assistant Director (PMLA), Directorate of Enforcement,
Government of India, Sector 18, Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. R.S.Athwal, Advocate,
for the petitioner.

Mr. Satya Pal Jain, Additional Solicitor General of India,
assisted by Mr. Sanjay Vashisth, Senior Panel Counsel,
for the respondent.

(proceedings conducted through video conferencing)

<u>GURVINDER SINGH GILL, J.</u> (Oral)

1. The petitioner has approached this Court challenging order dated 20.08.2021 (Annexure P-1) vide which an application seeking permission to go abroad as per the following schedule has been declined:

Sr. No.	Country	Travel Dates	Purpose of Travel
1.	Switzerland	02.09.2021 to 12.09.2021	1. Exhibition – Imagination One World One Vision (01.09.2021 to 06.09.2021) 2. Index the world's leading non wovens event (07.09.2021 to 10.09.2021) 3. Auto Basel Expo – 2021 (09.09.2021 to 12.09.2021)
2.	Vietnam	29.10.2021 to 05.11.2021	Meet to customer for Carbon Black and Import

			of Raw Rubber: M/s Vietnam Evermore Co. Ltd., Ho Chi Minh City, Vietnam
3.	USA/Canada	18.12.2021 to 02.01.2022	Business cum Excursion
4.	UAE	08.02.2022 to 17.02.2022	Gulfood 2022 the international leading trade fair (13.02.2022 to 17.02.2022)

2. Learned counsel for the petitioner has submitted that the petitioner is an established businessman and is into the business of 'Black Carbon', which is used in the manufacturing of car tyres etc. and that he is a regular income tax payee. Learned counsel in this regard has drawn the attention of this Court to the details of Income Tax paid during the last about 4 years, as have been reproduced in para 4 of this petition, which are as follow:

Assessment Years	**Gross Total Income**	**Tax Paid**
2017-2018	12,74,913.00	1,60,130.00
2018-2019	1,13,12,143.00	41,15,770.00
2019-2020	1,25,20,020.00	48,04,120.00
2020-2021	22,72,490.00	5,75,000.00
2021-2022	42,42,118.00	11,28,541.00
Total	3,16,21,684.00	1,07,83,561.00 (Rupees One Crore Seven Lakh Eighty Three Thousand Five Hundred Sixty One)

3. Learned counsel has further submitted that he has to travel to various countries in connection with his business and to attend exhibition/s and to meet customers so as to strike deals and that his business will be seriously hampered in case he is not permitted to go abroad. Learned counsel has further submitted that the petitioner earlier also had been permitted to go abroad on 5 different occasions and he had always returned back within the

stipulated time and has never misused the said concession. Learned counsel in this regard has drawn the attention of this Court to the particulars of his previous visits, as mentioned in para 11, which are reproduced as follow:

Permission Date	**Country**	**Duration**
17.10.2018	Sri Lanka	17.10.2018 to 20.10.2018
23.01.2019	Turkey & Thailand	Turkey: 08.02.2019 to 09.02.2019 Thailand: 25.01.2019 to 28.01.2019
06.06.2019	Portugal	17.06.2019 to 23.06.2019
06.09.2019	Thailand	06.09.2019 to 10.09.2019
Oct 2019	Germany	10.10.2019 to 19.10.2019

4. It has, thus, been prayed that the impugned order, as passed by the trial Court, cannot sustain as there is nothing on record to suggest that the petitioner would flee from justice or will not return back or in any case hamper the proceedings of trial. A prayer has, thus, been made for setting aside the impugned order and for acceptance of the instant petition so as to grant him permission to go abroad.

5. Opposing the petition, Mr. Satya Pal Jain, learned Additional Solicitor General of India assisted by Mr. Sanjay Vashisth, Senior Panel Counsel, has filed detailed reply, which is taken on record. It has been submitted that it is a case where the petitioner happens to be involved in a case of laundering of crores of rupees somewhere to the tune of about Rs.300 crores, which have been passed by the accused in countries outside India. Learned counsel for the respondent has further submitted that there is evidence to clearly show that the petitioner had received proceeds to the tune of Rs.40 lakhs from the firms/companies of main accused, namely,

Gaurav Kirpal, who is maternal uncle of the petitioner and that the said amount has been used for purchase of immovable property.

6. It has further been submitted that by way of instant application moved by the petitioner, he is virtually seeking blanket permission to hop around the world without clearly specifying the details and the urgency in respect of each of the visit. Learned counsel has, thus, prayed for dismissal of the petition.

7. I have considered rival submissions addressed before this Court.

8. It is certainly not in dispute that the petitioner happens to be involved in a case of money laundering, wherein crores of rupees are involved. Although it may be said that the prosecution as on date has evidence against the petitioner only to the extent of Rs.40 lakhs, but his involvement in the entire scam would be implicit. At the same time, it also appears that the petitioner is a businessman and had been filing his income tax return regularly in respect of his income and it can safely be presumed that the petitioner may be having businesses in which he has to travel abroad.

9. Further, this Court finds that the petitioner had earlier been granted permission to go abroad on 5 different occasions and there is nothing on record to show that he had ever misused the said concession or had violated any condition, as may have been imposed upon him at the time of granting permission to him to visit abroad. In these circumstances, the petitioner can safely be granted permission to go abroad in case it is required for his professional requirements. Since, it has been stated that he has to attend some exhibitions in Switzerland being held from 02.09.2021

to 12.09.2021 and in respect of which he has also attached document as Annexure P-10, he can be permitted to visit Switzerland. However, this Court at this stage would not be inclined to consider other request made for the subsequent visits, which are in respect of months of October, November, December, 2021 and January, 2022 and February, 2022.

10. Since the learned counsel for the respondent has expressed his apprehension that the petitioner may not return back, the said apprehension can well be taken care by imposing strict conditions. As such, the petitioner is permitted to visit Switzerland w.e.f. 02.09.2021 to 13.09.2021 subject to the following conditions:

(i) That the petitioner shall not seek extension of the period of his stay abroad at any ground whatsoever except in case of medical emergency and shall return to India by 13.09.2021;

(ii) That the petitioner shall not visit any other country except Switzerland;

(iii) That the petitioner shall not in any manner tamper with the evidence of the prosecution;

(iv) That the petitioner shall deposit an FDR to the tune of Rs.1 crore before the trial Court, which he shall not be able to encash without prior permission of the trial Court and the said amount shall be forfeited in case there is any violation of conditions on the part of the petitioner;

(v) The petitioner shall not have any objection for recording of evidence in his absence and shall instruct his counsel to duly cross-examine the witness even in his absence; and

(vi) That the petitioner after availing the aforesaid concession shall report back to the trial Court on 14.09.2021.

Apart from the above, the trial Court shall also be at liberty to impose any other condition at the time of accepting undertaking/surety bonds.

11. As far as the prayer of the petitioner as regards his other visits is concerned, the petitioner would be at liberty to approach the trial Court afresh separately in respect of each visit by detailing the reasons for his visits to such countries and the dates for which said visit is required.

12. The petition stands allowed in above terms.

31.08.2021 **(GURVINDER SINGH GILL)**
Vimal **JUDGE**

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