

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-4095-2022

Date of decision : 01.02.2022

Jagjit Singh Mann

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Vijay Lath, Advocate
for the petitioner.

Mr.V.G.Jauhar, Sr.DAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. for setting aside the condition of furnishing bank guarantee in the impugned order dated 06.01.2022 (Annexure P-9) passed by the learned Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar.

Learned counsel for the petitioner has submitted that the petitioner had moved an application for grant of permission to the petitioner Jagjit Singh Mann to go abroad. It is further submitted that it was stated in the application that the petitioner is a diabetic person and his treatment of diabetes and eye sight was being conducted at Arden, Hereford and Worcestershire Diabetic Eye Screening Programme (DESP), Worcester, UK and all his family members are residing in United Kingdom and no family member of the petitioner resides in India so as to look after him. A prayer was thus, made for permitting him to go for United Kingdom for a period of

four months. It is further submitted that although counsel for the State had opposed the said application but vide order dated 06.01.2022, the application was allowed and the petitioner was permitted to go abroad, i.e. to the United Kingdom for a period of four months w.e.f. 01.02.2022, with a direction to return to India by 01.06.2022 but the same had been made subject to furnishing bank guarantee in the sum of Rs.15 lacs by the petitioner. Other conditions were also imposed.

Learned counsel for the petitioner has raised limited challenge to the order dated 06.01.2022 inasmuch as he has submitted that the petitioner is ready to comply with all the terms and conditions laid down in the said order except for furnishing bank guarantee in the sum of Rs.15 lacs. It is stated that the petitioner is ready to execute personal bonds in the sum of Rs.15 lacs to the satisfaction of the trial Court/Duty Magistrate and is also ready to give two sureties in the sum of Rs.15 lacs each to the satisfaction of the concerned trial Court / Duty Magistrate.

Learned counsel for the petitioner has relied upon the judgments of coordinate Benches as well as a Division Bench of this Court in *Anjal Kumar @ Angel Kumar vs. State of Punjab and another*, reported as *2010(1) RCR (Criminal) 201*; *Arshdeep Singh vs. Union Territory, Chandigarh*, reported as *2017(1) Law Herald 897*; *Vivek Seth vs. State of Punjab*, reported as *2016(3) Law Herald 2221*; *Arun Kapoor vs. State of Haryana*, reported as *2004(4) RCR (Criminal) 594*; and *Bikramjit Singh @ Bikram vs. State of Punjab* reported as *2014(32) RCR (Criminal) 467* to contend that in all the said cases only personal bond and surety bond / sureties were furnished and in none of the said cases, the condition of furnishing bank guarantee was imposed.

Notice of motion.

On advance notice, Mr. V.G. Jauhar, Sr.DAG, Punjab, appears and accepts notice on behalf of the respondent-State and has submitted that he is fully prepare to argue the matter and assist this Court. He has opposed the present petition and has submitted that the impugned order is legal and in accordance with law and deserves to be upheld.

This Court has heard learned counsel for the parties and perused the paper book.

It is not in dispute that the petitioner had moved an application for grant of permission to him in order to go abroad on the averments that the petitioner has to undergo treatment for diabetes and also problems with respect to eye sight and the said treatment is to be conducted at Arden, Hereford and Worcestershire Diabetic Eye Screening Programme (DESP), Worcester, UK. The said application was allowed vide order dated 06.01.2022 after considering the fact that the petitioner had earlier gone abroad after having taken permission from the trial Court and duly returned without causing any prejudice to the trial. It had been observed that the evidence has already been recorded and only pronouncement of final judgment, which has been stayed by this Court vide order dated 11.01.2019 in a petition filed by the complainant, is still pending for adjudication and is now listed for 06.07.2022. The Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar, after considering all the facts had allowed the application and had permitted the petitioner to visit U.K. for a period of 4 months, w.e.f. 01.02.2022, with a direction to return India by 01.06.2022. Learned counsel for the petitioner has submitted that he is ready to comply with all the terms and conditions as mentioned in the impugned order dated 06.01.2022 and is

challenging the impugned order only on the limited aspect whereby the petitioner has been asked to furnish bank guarantee in the sum of Rs.15 lacs. It is argued by learned counsel for the petitioner that the said condition is very onerous and has relied upon various orders passed by the coordinate Benches of this Court in *Anjal Kumar @ Angel Kumar's* case (supra), *Arshdeep Singh's* case (supra), *Vivek Seth's* case (supra), *Arun Kapoor's* case (supra) and Division Bench of this Court in *Bikramjit Singh @ Bikram's* case (supra) to contend that in none of the said cases, the condition of furnishing bank guarantee had been imposed.

Keeping in view the above said facts and circumstances as also the law laid down in various judgments cited by learned counsel for the petitioner, the present petition is disposed of with the observations that the impugned order dated 06.01.2022 is upheld and only the condition “subject to furnishing bank guarantee in the sum of Rs.15 lacs” is modified and in place of said condition, the following condition is imposed:-

“the petitioner shall execute a personal bond in the sum of Rs.15 lacs to the satisfaction of the trial Court / Duty Magistrate and would also furnish two sureties in the sum of Rs.15 lacs each to the satisfaction of the concerned trial Court / Duty Magistrate”.

Rest of the conditions as imposed in the impugned order dated 06.01.2022 would remain the same.

(VIKAS BAHL)
JUDGE

February 01, 2022

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No