

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

Sr. No.270

CRM-M-11067-2022
Date of decision: 27.04.2022

Vishal Singh Dahiya

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Ms. Kavita Arora, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

Mr. A.K. Jindal, Advocate
for respondent No.2.

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DEEPAK SIBAL, J. (Oral)

Reply filed on behalf of respondent No.2 is ordered to be taken
on record.

Through the present petition, the petitioner seeks quashing of
order dated 29.09.2021 passed by the Judicial Magistrate, Ist Class,
Gurugram (for short – the Trial Court) through which the petitioner's prayer
for grant of permission to go abroad during the pendency of the criminal
proceedings against him has been rejected. Also under challenge is the order
dated 07.02.2022 (Annexure P-8) passed by the Additional Sessions Judge,
Gurugram (for short – the Revisional Court) through which a revision
petition filed by the petitioner to challenge therein the aforesaid order of the
Trial Court was dismissed. On the quashing of the impugned orders, while
on bail, the petitioner seeks the grant of permission to travel abroad for the

purpose of undergoing studies.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that on 16.12.2014, the petitioner and respondent No.2 got married; no child was born out of the wedlock; a matrimonial dispute arose between them as a result whereof on 27.03.2021, the petitioner filed a petition under Section 13 of the Hindu Marriage Act, 1955 seeking therein to divorce respondent No.2; on 31.03.2021 respondent No.2 filed a complaint with the police through which she alleged that the accused therein, which included the petitioner, had treated her with cruelty, beaten up her, outraged her modesty, threatened her and also committed criminal breach of trust with regard to articles of her Istridhan; on the basis of her complaint, on 02.07.2021, FIR No.0071 was registered under Sections 323, 34, 354, 406, 498-A and 506 IPC at Police Station Women West Gurugram, District Gurugram; in the meanwhile, in April 2021, the petitioner sought and got admission in a two year course of Applied Food Safety and Quality Management with Industrial Practice in the University of Greenwich, London; before the petitioner could join the said course, since the aforesaid FIR had been registered, he applied for anticipatory bail before the Sessions Court at Gurugram which petition of his was accepted on 01.09.2021; one of the conditions imposed by the Additional Sessions Judge, Gurugram, to grant anticipatory bail to the petitioner was that he shall not leave the country without prior permission of the Court; in the light of the afore-referred condition, to enable the petitioner to join the study course in the United Kingdom, he applied to the Trial Court seeking therein permission to go abroad; in the meanwhile, on 28.09.2021, the State completed the investigation in the FIR in question and filed a report under

Section 173 Cr.P.C on the filing of which the petitioner applied for regular bail which was granted on the same date; thereafter, the application filed by the petitioner through which he had sought permission from the Trial Court to travel abroad was rejected through an order dated 29.09.2021; on 01.10.2021, the petitioner left for the United Kingdom; in November 2021, the petitioner, through a Special Power of Attorney holder, challenged before the Sessions Court at Gurugram, the order of the Trial Court dated 29.09.2021 which petition of his was dismissed on the ground that in spite of denial of permission he had left for the United Kingdom and that the petitioner's revision petition through a Special Power of Attorney holder was not maintainable as also because he had concealed facts from the Court.

Since, in spite of denial of permission, the petitioner had travelled abroad, the Trial Court through order dated 08.03.2022 cancelled the petitioner's bail with a further direction to issue warrants for his arrest. Directions were also issued to the Indian Embassy in the United Kingdom to cancel the petitioner's visa. Order dated 08.03.2022 has been challenged by the petitioner before this Court through a separate petition being CRM-M-11081-2022 in which on 04.04.2022 this Court issued notice only after inter-alia noting the contentions made on behalf of the petitioner that the petitioner would come back to India and surrender before the Trial Court.

On 11.04.2022, the petitioner surrendered before the Trial Court and on 13.04.2022 he was granted regular bail.

Learned counsel for the petitioner submits that all that the petitioner seeks through the instant petition is permission to go abroad to undergo higher studies which permission should not be denied especially when the criminal proceedings being faced by the petitioner originate from

a matrimonial dispute; the petitioner's conduct to travel abroad on 01.10.2021 was on account of wrong legal advice as in the order of the Trial Court dated 28.09.2021, through which, on the filing of the challan, the petitioner was granted regular bail, there was no such condition imposed that the petitioner could travel abroad only with the permission of the Trial Court and that in any case, the petitioner had shown his bona fides by coming back to India and surrendering before the Trial Court not only himself but also his passport.

Learned State counsel as also learned counsel for respondent No.2/complainant contend that through order of the Trial Court dated 29.09.2021, the petitioner's prayer for the grant of permission to travel abroad had been specifically rejected but in spite of the same, on 01.10.2021, he went to London showing scant regard for the process of law; the petitioner had no intentions to return to India and did so only in the light of the subsequent order of the Trial Court dated 08.03.2022 through which not only was his bail cancelled but directions were also issued to cancel his visa; the petitioner's plea to travel abroad for undergoing higher studies is a sham as his intentions to travel abroad are for getting married to a foreign national and that intention of his had been duly expressed by the complainant in her complaint made to the police on 31.03.2021 which has now come true especially when the petitioner had sought and got admission in the aforesaid course only after the complainant's complaint on 31.03.2021; the petitioner seeks to travel abroad only to escape his trial as there was no reason for him to apply for admission to a post graduate course after a gap of over four years after his Graduation and that too in London and that going by his past conduct, if the petitioner is granted the permission

that he seeks, he will flee from justice.

Through order dated 29.09.2021, the Trial Court dismissed an application filed by the petitioner through which, while on bail, he had sought permission to travel abroad. The relevant portion of such order reads as follows:-

“I have gone through the record carefully including the charge-sheet filed against the accused. On the basis of the documents placed on record and after going through the allegations levelled against the accused herein, the accused is not entitled to any leniency at this stage. As per documents submitted, the course in question has already begun on 13.09.2021. Thus, the question of urgency to join is not made out as such. Furthermore, the accused has alleged that he has no steady source of income but then has failed to show how he has already paid the entire fees for the course. Furthermore, the parents of the accused have allegedly disowned him and hence he does not appear to have any permanent residence here or deep roots in the society as such. The possibility of accused absconding and not appearing for the trial cannot be ruled out especially when none of his family members can be made to secure his presence for the trial as their relationship is already strained. Lastly, the application for the course has been made after registration of the FIR and hence it appears to be an attempt to flee from justice and afterthought only. There is no urgency in the matter and rights of the accused have to be balanced with the rights of the victim who wants an expedited trial and not an elongated one. Accordingly, for the above said

reasons, I am not inclined to allow the application at hand and hence the same is dismissed. This order be intimated to the passport authorities for information and necessary action, if any through email and speed post.” (emphasis supplied)

A perusal of the afore-quoted portion of the order of the Trial Court reveals that, while on bail, the petitioner was denied permission to go abroad on account of his admission before the Trial Court that he had no steady source of income; contradictions in his stand as on one hand he had stated that he had no steady source of income and on the other hand he had paid several lakhs of rupees to secure admission in a 02 year post graduate course in the United Kingdom; the petitioner's parents had disowned him and therefore his credibility was shaky and that it could not be ruled out that if the petitioner was permitted to travel abroad, he may flee from justice because the application by the petitioner for admission to the study course in the United Kingdom had been made by him in April 2021, i.e. after the complainant had filed her complaint with the police in which she had inter-alia submitted that the petitioner intends to flee to the United Kingdom.

In the facts of the present case, the afore reasons given by the Trial Court to deny permission to the petitioner to travel abroad while on bail, have been considered and found to be reasonable.

Further, through its order dated 29.09.2021 the Trial Court denied permission to the petitioner to travel abroad while he was on bail. In complete defiance of such order and even before the ink of the signatures of the Trial Judge on such order would have dried, on 01.10.2021, the petitioner flew to London. Since the study course in question had already started several months ago the apparent haste on the part of the petitioner to

fly out of India was the direction given by the Trial Court that a copy of it's order dated 29.09.2021 be forthwith intimated to the Passport authorities. The petitioner intended to and did leave the Indian borders before receipt of a copy of the order of the Trial Court by the immigration authorities.

The plea by the petitioner that he went abroad under legal advice is unacceptable as it was on his plea for permission to travel abroad that the Trial Court had passed a specific order rejecting the same. The order in plain English is unambiguous. The intent and content thereof is perfectly understandable by a well read person like the petitioner. The same needed no intricate legal interpretation.

The facts on record further reveal that the petitioner fled to London on 01.10.2021 and did not return to India for several months thereafter. Instead, in the 3rd week of November 2021, through a Special Power Attorney holder, the petitioner challenged the aforesaid order of the Trial Court dated 29.09.2021 through a revision petition which was also dismissed on 07.02.2022. Even after the dismissal of the revision petition the petitioner failed to return to India. Apparently, what triggered his return was the order of the Trial Court dated 08.03.2022 through which while cancelling the petitioner's bail the Trial Court issued directions to the concerned authorities to cancel the petitioner's Visa. Coerced by the repercussions of the implementation of such directions which would have sealed his fate not only to stay in the United Kingdom but also jeopardise his future travel to such land as also to other foreign countries, he immediately filed a petition before this Court to inter-alia challenge such directions and in such petition notice was issued only after inter-alia noting a submission made on his behalf that he shall return to India and surrender

before the Trial Court. Had his bonafides been clear he would not have waited for over 06 months to return to face the proceedings pending against him.

In the light of the afore reasons and the conduct of the petitioner, this Court reposes no faith in him to permit him to travel abroad while on bail, especially when he seeks such permission to study in a post graduate course to which he sought and got admission after the complainant's complaint had been filed with the police in which she had specifically referred to the petitioner's intentions of fleeing to the United Kingdom to avoid facing proceedings initiated at her instance as also because he had sought and got admission to a post graduate course in London after an unexplained gap of over 04 years after his graduation.

Dismissed.

April 27, 2022
Jyoti 1

(DEEPAK SIBAL)
JUDGE

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