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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14862-2022

Date of Decision: April 08, 2022

Ayushi

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Karnail Singh, Advocate
for the petitioner.

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RAJESH BHARDWAJ, J.(ORAL)

Petitioner has approached this Court impugning the order dated 23.03.2022 whereby the learned Judicial Magistrate First Class, Nabha (Patiala), accepted the application filed by respondent Nos.2 and 3 to grant them permission to visit Canada from 22.04.2022 to 22.07.2022 in FIR No.236/2020, dated 03.12.2020, under Sections 498-A, 406, 323, 342, 380, 120-B IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961, registered at Police Station Kotwali, Nabha.

Counsel for the petitioner has submitted that petitioner is the complainant of the FIR in question. She was married with son of respondent Nos.2 and 3, namely, Manav Kauldhar on 27.02.2020. After the marriage, her husband and his family members, i.e., respondent Nos.2 and 3, started harassing her on account of demand of dowry. Differences between the petitioner and her in-laws kept increasing and finally the petitioner had to resort to the legal remedy by lodging the present FIR against her husband, respondent Nos.2 and 3 and other relatives for taking the legal action against them. Apprehending their arrest, respondent Nos.2 and 3 approached the

Court of learned Additional Sessions Judge, Patiala, for grant of anticipatory bail. After hearing the parties, the learned Additional Sessions Judge, Patiala, granted anticipatory bail to respondent Nos.2 and 3 vide its order dated 22.02.2021 subject to the conditions laid down in Section 438(2) Cr.P.C.

After the grant of anticipatory bail, respondent Nos.2 and 3, filed an application for seeking permission from the Court to visit Canada from 22.04.2022 to 22.07.2022 . It was pleaded by them that their second son, namely, Rahul Kauldhar and his wife, namely, Tanvir Kaur are living in Canada. Tanvir Kaur is pregnant and her expected delivery date is 08.05.2022 and in order to take care of their daughter-in-law, their presence is required at the time of birth of the child and hence, they may be allowed to visit Canada from 22.04.2022 to 22.07.2022. After hearing the parties, the learned JMIC, Nabha, accepted the application by granting them permission to both respondent Nos.2 and 3 to visit Canada from 22.04.2022 to 22.07.2022 subject to their furnishing the surety of Rs.5,00,000/- in cash each in the Court. They were further directed to place on record the attested copies of their respective passports, visas and tickets including return tickets.

Counsel for the petitioner has vehemently submitted that the view taken by learned JMIC, Nabha, is illegal and totally unsustainable in the eyes of law. He submits that there are specific allegations against both the respondents and their son and daughter-in-law, namely, Rahul Kauldhar and Tanvir Kaur, who are also accused in the FIR. He submits that respondent Nos.2 and 3 have filed an application for visiting Canada in order

respondents, their prosecution for the offence committed by them could not be possible and hence the impugned order be set aside by restraining them from leaving the country.

Heard.

Respondent Nos.2 and 3 are the parents-in-law of petitioner-complainant. Though they are accused in the FIR in question, however, they have been granted anticipatory bail subject to the conditions, as enumerated under Section 438(2) Cr.P.C.. From a bare reading of condition No.438(2)(iii), it is apparent that the accused in a given case, who has been enlarged on anticipatory bail, are legally entitled to leave India with the permission of the Court. Both the respondents have duly approached the Court of learned JMIC, Nabha, who after appreciating the attending facts and circumstances, has allowed their prayer subject to furnishing of appropriate security by both the respondents. No doubt respondent Nos.2 and 3 are facing trial in FIR No.236/2020, dated 03.12.2020 aforementioned, however, their fundamental right enshrined under Article 21 of the Constitution of India does not get extinguished. Respondent Nos.2 and 3 have been granted permission by imposing the reasonable restrictions.

In the overall facts and circumstances of the case, this Court finds no infirmity in the permission granted by learned JMIC, Nabha, to respondent Nos.2 and 3 to visit Canada from 22.04.2022 to 22.07.2022. The petition having no merit is hereby dismissed.

April 08, 2022

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(RAJESH BHARDWAJ)

JUDGE

1. Whether speaking/reasoned ?

Yes/No

2. Whether reportable ?

Yes/No