

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-20123-2022 (O&M)
Date of Decision:-13.5.2022

Utkarshh Pahwa ... Petitioner

Versus

Assistant Director (PMLA), Directorate of Enforcement ... 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 with
Mr. Sanjay Vashisth, Sr. Panel Counsel for UOI.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner challenges order dated 9.5.2022 (Annexure P-4) passed by learned Special Judge, PMLA Court, Chandigarh vide which his application (Annexure P-2) seeking permission to go abroad i.e. to Maldives from 15.5.2022 to 19.5.2022, has been declined.
2. Learned counsel representing the respondent-UOI has filed reply, which is taken on record.
3. Learned counsel for the petitioner submitted that the petitioner had moved the aforesaid application on the ground that he was to attend a marriage

function in ‘Maldives’, of his friend and that since even in the past, he had sought permissions and had travelled abroad and had always returned back in time, the said application ought to have been allowed, whereas the learned Trial Court has declined the same on flimsy grounds by stating that attending a marriage function is not a valid ground to grant such permission. Learned counsel for the petitioner, in order to hammer forth his aforesaid submission, places reliance upon a judgment of Hon’ble the Supreme Court rendered in Satish Chandra Verma Versus Union of India, 2019(2) S.C.T., 741, wherein it has been held as under:

“The right to travel abroad is an important basis human right for it nourishes independent and self-determining creative character of the individual, not only by extending his freedoms of action, but also by extending the scope of his experience. The right also extends to private life, marriage, family and friendship are humanities which can be rarely affected through refusal of freedom to go abroad and clearly shows that this freedom is a genuine human right.”

4. Learned counsel for the petitioner has thus submitted that keeping in view the past record of the petitioner, wherein he had always returned back after availing the concession of going abroad, the impugned order cannot sustain and deserves to be set aside. Learned counsel for the petitioner has submitted that, in any case, the petitioner is not the main accused in the present case and that it is the co-accused Aman Kirpal and Gaurav Kirpal, who are the main accused.
5. On the other hand, learned counsel representing the respondent-UOI, while opposing the petition, has submitted there is every possibility that the petitioner would flee from justice inasmuch as co-accused Bhawna Kirpal,

who is maternal aunt of the petitioner, has already been declared a proclaimed offender and that keeping in view that huge amount is involved, there is no guarantee that the petitioner would return back.

6. Learned counsel for the respondent-UOI has further submitted that though there is no dispute that an accused can be granted permission to go abroad but the present case is such where the petitioner has frequently been seeking such permission on flimsy grounds and that even in the present case it is not a case where any of his relative is getting married but is a case where some of his friend is stated to be getting married.
7. I have considered rival submissions addressed before this Court and have also gone through the reply filed on behalf of the respondent-Union of India.
8. It is not in dispute that the petitioner had previously been granted permissions to go abroad on various occasions, the details of which are mentioned in para No.13 of the petition. The aforesaid factum of the petitioner having availed such concession on previous occasions and having returned back is not disputed by the respondent-UOI.
9. In view of the aforestated position, this Court finds that the petitioner can be granted the concession of going abroad again.
10. As far as the apprehension of the respondent-UOI regarding the petitioner fleeing from justice is concerned, the same can be well taken care of by imposing strict conditions upon the petitioner.
11. In view of the discussion made above, the impugned order dated 9.5.2022 (Annexure P-4) passed by learned Special Judge, PMLA Court, Chandigarh is hereby set aside. The application (Annexure P-2) seeking permission to go

abroad is accepted and the petitioner is permitted to go abroad w.e.f. 15.5.2022 to 19.5.2022 i.e. to Maldives, 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 19.5.2022;
- (ii) That the petitioner shall not visit any other country except Maldives;
- (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/Chief Judicial Magistrate/Duty Magistrate concerned, 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 20.5.2022.

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.

12. The instant petition stands allowed in above terms.

13. A copy of this order be furnished to learned counsel for the petitioner under signatures of Reader of this Court.

13.5.2022

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No