

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

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**CRM-M-21854-2022
Date of decision: 27.05.2022**

KULWINDER KAUR AND ANOTHERPetitioners

VERSUS

STATE OF PUNJABRespondent

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. G.S. Jagpal, Advocate
for the petitioners.

VINOD S. BHARDWAJ, J. (Oral)

The petitioners have approached this Court under Section 482 of the Code of Criminal Procedure, 1973 raising a challenge to the order dated 11.05.2022 (Annexure P-11) passed by the Chief Judicial Magistrate, Ludhiana in case bearing FIR No. 44 dated 14.10.2021 registered under Section 420 and 120-B of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”) at Police Station P.S. NRI, District Ludhiana (Annexure P-2) to a limited extent whereby the trial Court has imposed the following conditions while allowing the petitioners to travel abroad. The said conditions are reproduced as under:

“(1) Accused/applicants shall furnish bank guarantee of Rs.20,00,000/- (Twenty Lakh), each, to the court thereby assuring that they would return to India within the time period of three months from 20.05.2022, which they would intimate to the court.

(2) Besides furnishing a personal bond of Rs.20,00,000/-, each, they shall furnish two local sureties of Rs.20,00,000/- each thereby undertaking their return to

India within time period of three months.

(3) Accused/applicants shall submit their address, where they would be putting up during their stay at America alongwith the contact number.

(4) Accused/applicants shall inform the court their date of departure, flight by which they would be departing, the date on which they would be arriving back.

(5) Accused/applicants would submit duly certified copy of their passports to this court.”

Learned counsel appearing on behalf of the petitioners contends that even though the application submitted by the petitioners for seeking permission to go abroad i.e. to New York on account of medical conditions since the petitioner No.2 namely Sucha Singh is suffering from Heart problem and had undergone a Cardiac surgery at a Hospital in New York and that on account of certain post operative problems, he is required to visit the said facility for medical check up and treatment. The petitioner No.1 being the wife of petitioner No.2 also has to accompany the petitioner No.2 for taking care of him. He further points out that the petitioners was granted the concession of anticipatory bail vide order dated 29.11.2021 passed by the Court of Additional Sessions Judge, Ludhiana and that they have never misused the concession extended to them.

The matter had come up for preliminary hearing on 20.05.2022 on which date, considering the urgency in the situation, state counsel was directed to seek instructions and to advance arguments.

Learned State counsel has not raised any serious challenge to the maintainability of the petition.

I have heard learned counsel appearing on behalf of the

respective parties. The conditions imposed by the Chief Judicial Magistrate, Ludhiana while allowing the application and permitting the petitioners to travel abroad for a period of three months from 20.05.2022, was on the condition of the petitioners furnishing bank guarantee to the tune of Rs.20,00,000/- each, besides furnishing of personal bonds of Rs.20,00,000/- each alongwith furnishing two local sureties of Rs.20,00,000/- each. The said conditions invariably seem to be harsh and onerous considering that the FIR in question pertains to an allegation involving a total amount of Rs.14.61 lakhs approximately. Once the application has been allowed and the petitioners have been permitted to travel abroad, imposition of any such condition that would render the order not enforceable and deprive the petitioners of availing the benefit of such an order would be contrary to the spirit behind passing such an order.

Taking into consideration that the case is one of medical emergency and the petitioners would require monetary compensation for the purposes of their medical treatment and other expenses in New York, burdening them with such onerous conditions is likely to deprive them of seeking the best medical facility available to them.

Accordingly, the present petition is allowed and terms of conditions imposed by the Chief Judicial Magistrate, Ludhiana in his order dated 11.05.2022 are modified to an extent that the condition of furnishing personal bond of Rs. 20,00,000/- each is dispensed with. The condition of the petitioners requiring them to furnish Bank Guarantee bond of Rs. 20,00,000/- each is modified to furnishing of Bank Guarantee for a consolidated sum of Rs.20,00,000/-. Additionally, the

condition of requiring two local sureties of Rs. 20,00,000/- each shall remain intact. All other conditions are retained with the aforementioned modifications. Apart therefrom, as the period of 03 months was to commence from 20.05.2022 and that more than one week has already elapsed, hence, the period of 03 months as allowed by the Chief Judicial Magistrate shall stand modified to commence from 10.06.2022. The petitioners shall return on or before 09.09.2022 and shall report their arrival to the concerned Station House Officer on or before **15.09.2022**.

The petition is partly allowed accordingly.

(VINOD S. BHARDWAJ)
JUDGE

MAY 27, 2022

Vishal sharma

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