

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

CRM-M-930-2023

Date of decision: 16.02.2023

Sadhu Singh Randhawa

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Tushaar Madaan, Advocate
for the petitioner.

Mr. Anup Singh, A.A.G., Punjab.

NAMIT KUMAR, J. (ORAL)

This petition has been filed by the petitioner under Section 482 Cr.P.C. seeking permission to visit abroad/Canada w.e.f. 01.02.2023 to 31.03.2023 and further seeking quashing of impugned order dated 19.12.2022 (Annexure P-7) passed by the learned Judicial Magistrate 1st Class, SAS Nagar, Mohali in CRM-1823-2022 dated 13.12.2022 titled as 'Sadhu Singh Randhawa Vs. State of Punjab' whereby, the application of the petitioner seeking permission to go abroad (Annexure P-6) has since been dismissed.

In pursuance to issuance of notice of motion, the learned State counsel has filed status report dated 15.02.2023 by way of an affidavit of Sh. Harsimran Singh Bal, PPS, Deputy Superintendent of Police (City-II), District SAS Nagar, on behalf of the respondent-State and the same is taken on record. Copy thereof has been supplied to learned counsel for the petitioner.

In para 6 of the status report, it has been averred as under:-

“6. That it is respectfully submitted that thereafter, the accused including the petitioner moved a complaint No.573/5C/Phase-8 dated 07.09.2021 before the SHO, PS Phase 8, Mohali pleading their innocence and false implication in the present case/FIR.

After detailed inquiry into the said representation/complaint, the accused Izreek Randhawa, Sachin Malhotra and Sadhu Singh Randhawa (petitioner) were found to be innocent and the offences under Sections 465/468/471/120-B of IPC were not found to be made out and accordingly, the accused-Izreek Randhawa, Sachin Malhotra and Sadhu Singh Randhawa (petitioner) were declared innocent and the offences under Sections 465/468/471/120-B of IPC were deleted from the array of Sections by the SHO, PS Phase 8, Mohali and the supplementary report under Section 173 (8) Cr.P.C. was prepared on 18.11.2021 and presented before the learned Court of competent jurisdiction on 15.02.2022.

The case is pending consideration before the learned Court below and is now fixed for hearing on 09.06.2023.”

Learned counsel for the petitioner submits that since in a detailed inquiry, the petitioner has been declared innocent and offences under Sections 465/468/471/120-B of IPC have been deleted from the array of Sections by the SHO, Police Station Phase 8, Mohali and supplementary report under Section 173(8) Cr.P.C. has been prepared and presented before the learned trial Court on 15.02.2022, therefore, the impugned order cannot sustain and he may be permitted to go abroad. He further relies upon the orders passed by the Coordinate Bench(s) of this Court in a case titled as 'Anjal Kumar @ Angel Kumar Vs. State of Punjab (P&H)' 2010(1) R.C.R. (Criminal) 201; 'Kulbir Kaur and another Vs. Parminder Singh and another (P&H)' 2020(3) Law Herald 2318 and 'Balbir Singh Dhol Vs. State of Punjab (P&H)' 2022(3) R.C.R. (Criminal) 699; wherein, it has been held that accused facing trial can be permitted to go abroad being his fundamental right which cannot be curtailed merely on account of pendency of criminal case against him.

The learned State counsel fairly submits that in view of the stand taken in the status report the petitioner cannot be denied permission to go abroad as he has already been declared innocent and necessary report to this effect has been filed before the trial Court: for deletion of certain sections.

In view of the above, the impugned order dated 19.12.2022 (Annexure P-7) is set aside and the petitioner is permitted to go abroad (Canada) till 31.03.2023 as prayed in the present petition subject to his furnishing complete details of the contact and place where he is likely to reside during his foreign visit before the Illaqa Magistrate/Duty Magistrate concerned and shall report to the police station within a period of one week of his return to India. The petitioner shall furnish heavy surety to the satisfaction of the Illaqa Magistrate/Duty Magistrate, concerned. He shall also undertake before the trial Court that he will not seek any extension in any manner.

16.02.2023

Neha

(NAMIT KUMAR)

JUDGE

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