

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8460-2023 (O&M)
Date of decision : 26.04.2023

Athar Zia
... Petitioner(s)
Versus
Central Bureau of Investigation
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Sajal Bansal, Advocate and
Mr. Saransh Sabharwal, Advocate
for the petitioner(s).

Mr. R.S. Dhaliwal, Advocate for
Ms. Shubhra Singh, Standing Counsel
for respondent-CBI.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
RCBD1/2020 /E/0009	22.12.2020	CBI, BSFB, New Delhi	420, 467, 468, 471 read with Section 120-B IPC & Sections 13(2) read with Section 13(1)(d) P.C. Act.

Aggrieved by order dated 10.2.2023 (Annexure P-5) passed by Special Judge, CBI in case FIR captioned above, declining permission to go abroad, with a further prayer to grant permission to go abroad, the petitioner-accused who is 60 years of age, has come up before this Court under Section 482 CrPC.

2. Learned counsel for the petitioner has referred to paragraph no.1 of the petition and submits that except the present FIR, there is no other case pending against the petitioner. He further submits that due to losses suffered by his company, the same was got liquidated and now, the petitioner in order to start a new professional beginning and to earn his livelihood, he intends to visit countries like UAE/Dubai, Saudi Arabia, Kuwait and US for sale/export of Basmati Rice.
3. State does not dispute the facts, as mentioned in the petition.
4. I have heard counsel for the parties and perused the impugned order.
5. The petitioner-accused is stated to be in the business of marketing/export of

Basmati Rice. Denying him opportunity to go abroad deprives his source to earn livelihood, as enshrined under Article 21 of the Constitution. Simply because a case is pending, would not mean that he would not return back to India or cannot be brought back to India. The Court can put appropriate conditions to ensure his presence in the case.

7. Given above, the present petition is allowed and the impugned order dated 10.2.2023 (Annexure P-5) passed by Special Judge, CBI is set aside. Petitioner is permitted to go abroad. However, this order is subject to compliance of following conditions before leaving abroad:-

- i) That the petitioner shall procure a smart phone and inform its IMEI number and other details to the SHO/I.O. of the Police station mentioned before. The petitioner shall always keep the phone location/GPS on the “ON” mode. Whenever the Investigating officer asks to share the location, the petitioner shall immediately do so. The petitioner shall neither clear the location history, Whatsapp chats, calls nor format the phone without permission of the concerned SHO/I.O. This condition shall continue till the completion of the trial or closure of case, whatever is earlier;
- ii) The petitioner shall intimate his address, phone and whatsapp number or any other online messenger including Signal/Telegram/Botim etc. which will be operational in the visiting country;
- iii) In case the investigator wants presence of the petitioner, he shall appear through his counsel and ensure his presence through available online messenger;
- iv) The petitioner shall declare his assets by way of a notarized affidavit and forward to the Investigator/SHO, mentioning complete details of bank account numbers with addresses, fixed deposits, DEMAT account numbers, the current market value of jewellery, sovereign metals, all precious articles, held either individually or jointly, and cash-in-hand till 15.5.2023;
- v) The petitioner shall intimate date, time, place of his visit and date of return to the Investigating well in advance;

8. Look Out Circular, if any, issued by the authority shall remain suspended till 30.11.2023. It is made clear that this order shall come into force as and when he files his assets, as stated above. It is further clarified that in case the petitioner tries to abscond, it shall be permissible for the CBI to ask for the passport authorities to cancel the passport of the petitioner and take appropriate legal action in the matter.

Petition allowed. All pending application(s), if any, shall stand disposed of.

(ANOOP CHITKARA)
JUDGE

April 26, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No