

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

117

CRM-M-9335-2023

Date of decision : 23.2.2023

Kamaljit Singh

.....Petitioner(s)

Versus

State of Punjab

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Lakhwinder Singh Mann, Advocate for the petitioner(s)

AMAN CHAUDHARY, J.

The present petition has been filed under Section 482 Cr.PC for quashing of order dated 09.02.2023, Annexure P-5, passed by learned trial Court vide which the application of the petitioner seeking permission to go abroad has been dismissed.

Learned counsel for the petitioner submits that the learned trial Court has declined the application of the petitioner solely on the ground that this Court has passed an order of stay and this his application has not been considered on merits, wherein he had prayed for permission to go abroad, as he is running a restaurant in Portugal. Even previously, he had been granted permission by the Court, whereafter, on the expiry of the prescribed period, the petitioner had returned and is since been appearing regularly before the trial Court.

Heard.

It is apposite to make a reference to order dated 30.11.2022, passed in CRM-M-22237-2022, which reads thus:

“Learned State counsel seeks time to file reply.

May do so before the next date of hearing with a copy in advance to the learned counsel for the petitioner.

Adjourned to 16.01.2023.

The trial Court is directed to adjourn the matter beyond the date fixed before this Court.”

The operative portion of the order dated 09.02.2023, passed by learned Sub Divisional Judicial Magistrate, Nakodar reads thus:-

“Perusal of the file reveals that applicant was granted permission to visit abroad vide order dated 21.07.2022 for a period of three months. At that time there was no direction passed by the Hon'ble High Court to the trial Court. But the applicant himself submitted in the application that applicant has already moved quashing petition of said FIR before the Hon'ble Punjab & Haryana High Court whereby the proceedings of this FIR were stayed. Report of the Ahlmad called and Ahlmad has put order of Hon'ble High Court dated 30.11.2022 “whereby the trial Court is directed to adjourn the matter beyond the date fixed before this Court”. Since the proceedings have been stayed by the Hon'ble High Court, therefore, the court cannot go beyond the order of the Hon'ble High Court. Accordingly, the application stands dismissed.”

Perusal of the aforesaid order shows that the application filed by the petitioner has not been considered on merits by the learned trial Court, only on account of the fact that this Court has directed the trial Court to adjourn the matter beyond the date fixed before this Court.

In view of the aforesaid, the matter is remanded to the trial Court making it clear that the order dated 30.11.2022 passed by this Court shall be no impediment in the disposal of the application on merits.

Disposed of accordingly.

23.02.2023
gsv

(AMAN CHAUDHARY)
JUDGE

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