2023:PHHC:143373

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

Decided on : 07.11.2023

CRM-M-10339-2023

Gaurav Kirpal ...... Petitioner

Versus

Central Bureau of Investigation ...... Respondent

CRM-M-12114-2023

Gaurav Kirpal ...... Petitioner

Versus

Assistant Director, Directorate of Enforcement ...... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vinod Ghai, Sr. Advocate with
Mr. Saurabh Kapoor, Advocate and
Mr. D.S.Malook, Advocate
for the petitioner.

Mr. Rajeev Anand, Advocate for CBI.

Mr. Satyapal Jain, Sr. Advocate
Assistant Solicitor General with
Ms. Sharmila Sharma, Sr. Panel Counsel
for Union of India.

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Manjari Nehru Kaul, J.(Oral)

This order shall dispose of above-said two petitions as both of them have arisen out of order dated 04.08.2021 (Annexure P-2) passed by Ld. Spec ial Judge, CBI Court vide which his application to go abroad for business purposes was dismissed. Brief facts of the case are taken from CRM-M-10339-2023.

2. Learned Senior counsel for the petitioner *inter alia* contends that prior to the registration of the FIR in question, he had been exporting ready made garments to various countries as well as importing food items; therefore, he had been regularly travelling outside India for his business. It has been further submitted that the petitioner wants to travel abroad to recover payments , which are due to him from his clients, who are all based outside India, else the petitioner would suffer irreparable damage in case he is not granted the permission to travel abroad. Learned Senior counsel has further submitted that the petitioner may be put to any stringent conditions while granting him the permission to travel abroad. While drawing the attention of this Court to orders dated 09.02.2023, 13.05.2022 and 20.02.2023 (Annexures P-19 to P-21) it has been submitted that it is a matter of record that the co-accused including his brother, who allegedly purchased properties in Abu Dabai, had also been extended a similar concession by this Court to travel outside India. It has still further been submitted that there can be no flight risk qua the petitioner as it is a matter of record that there are as many as 20 immovable properties owned by the petitioner, valued in excess of Rs.16 crores, and which stand pledged with the Indian Overseas Bank; even the family house of the petitioner is worth Rs.4.5 crores, which however, has been frozen by the Enforcement Directorate. A prayer, therefore, has been made that the petitioner be permitted to travel abroad for the purpose of his business for a period of one month.

3. Per contra, learned counsel for the CBI while opposing the prayer of the petitioner has submitted that the petitioner is the main accused in a

scam of Rs.300 crores, pertaining to Indian Overseas Bank. It has been further submitted that prior to the registration of the FIR in question, the petitioner was detained at the Delhi Airport, while he was trying to flee from the country and thus, there could be a flight risk in case he was granted permission to travel abroad.

4. On a pointed query put to the learned counsel for the respondent - CBI as to whether the orders vide which the co-accused including the brother of the petitioner, who allegedly purchased properties in Abu Dabai with the crime money had been granted permission, was ever challenged by the respondent, he has replied in the negative. It has also not been disputed that the co-accused who had been granted permission to travel abroad, had never misused the said concession.

5. Heard learned counsel for the parties and perused the relevant material available on record.

6. As has also not been disputed by the learned counsel for the CBI/ Enforcement Directorate, the other co-accused in the FIR in question against whom similar allegations have been levelled, were granted permission to travel abroad, and had always abided by the orders and conditions imposed upon them while being granted the permission, and had always returned to India. It has also not been disputed that no challenge was ever made to the orders vide which the co-accused had been granted the permission to travel abroad.

7. In the facts and circumstances, the present petition is allowed and the petitioner is granted permission to travel abroad for a period of only two

weeks, however, subject to the following conditions:

(i) The petitioner shall not leave the country without informing the trial court a week in advance of his purported visit abroad.

(ii) The petitioner shall furnish the complete itinerary along with the places and countries, which he would be visiting during his stay abroad.

(iii) The petitioner shall furnish the addresses of the places along with his contact number during his travel abroad.

(iv) On return to India, he shall intimate the trial court in writing about his return.

(v) The petitioner shall not travel abroad during the period when the case is listed for hearing before the Court concerned unless and until his presence has been expressly dispensed with.

(vi) In case the presence of the petitioner has been exempted, the trial will continue in his absence though it would be in the presence of his learned counsel and the evidence recorded during his absence shall be then binding upon him and he will not dispute his identity.

(vii) The petitioner shall furnish bank guarantee/FDR in the sum of Rs.1 crore issued by any Nationalized Bank with renewing facility, which shall be kept alive till the pendency of the matter. The said FDR/Bank guarantee would be retained by the trial Court, till the trial is over.

07.11.2023 **(MANJARI NEHRU KAUL)**
sonia **JUDGE**

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