

2023:PHHC:071899

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-10807-2023 (O&M)
Date of Decision:-17.5.2023

Nav Rattan Munjal

... Petitioner

Versus

U.T., Chandigarh

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Puneet Bali, Senior Advocate with
Mr. Surjeet Bhadu, Advocate,
Mr. Veer Singh, Advocate and
Ms. Mahima Gill, Advocate for the petitioner.

Mr. Abhinav Gupta, Addl.P.P., U.T., Chandigarh,
assisted by Sub Inspector Suresh Kumar.

GURVINDER SINGH GILL, J. (Oral)

1. The instant petition has been filed on behalf of the petitioner seeking issuance of directions for releasing his passport permanently, which stands deposited before the Trial Court pursuant to conditions imposed by this Court vide order dated 22.2.2019 passed in CRM-M-2566-2019 (Annexure – P-1/A).
2. The petitioner is facing trial before the Court of learned Special Court, Chandigarh in a case arising out of FIR No.3, dated 1.8.2018 registered at Police Station Vigilance, Chandigarh, under Sections 409, 420, 466, 468, 471, 120-B of Indian Penal Code read with Sections 12, 13(1)(d), 13(2) of Prevention of Corruption Act, 1988.

3. When the petitioner had approached this Court seeking grant of regular bail, this Court vide order dated 22.2.2019 passed in CRM-M-2566-2019 (Annexure – P-1/A), while granting *interim* bail to the applicant/petitioner had imposed certain conditions regarding deposit of amount and had also directed that the petitioner shall deposit his passport with the Trial Court. The relevant extract of order dated 22.2.2019 is hereby reproduced hereinunder:

“.....Keeping in view the entire conspectus of facts the following order is passed:-

1. The petitioner shall in the first instance make a fixed deposit of 25% of the claimed amount i.e. Rs.66,09,070,122/- in the name of “Ind Swift Laboratories Ltd.” and hand over it to the Trial Court for safe custody and on doing so he would be released on interim conditional bail to its satisfaction till the next date of hearing and shall also deposit his passport with the Trial Court.
2. After being released on interim bail, he should arrange for the remaining 75% which is claimed by the tax authority. Once that is done, 25% amount would be transferred to the tax authorities (as pre deposit in terms of under Section 62 of Punjab Act No. 19, 2005). The remaining amount would be put in a fixed deposit in any Nationalized bank. The Trial Court is directed not to let it be encashed it till such time the competent Court directs.

Adjourned to 28.3.2019.”

4. Thereafter, the petitioner moved an application i.e. CRM-14178-2019 in this Court seeking modification of the aforesaid order as regards the deposit of amount, which was disposed of vide order dated 29.5.2019, wherein this Court instead of deposit of 75% directed the petitioner to deposit an amount of Rs.5 crores in “Fixed Deposit” and to submit the same in the Trial Court.

5. The petitioner still being aggrieved by the aforesaid directions of deposit of amount of Rs.5 crores, approached Hon'ble the Supreme Court challenging order dated 29.5.2019 by way of filing Special Leave Petition (SLP) No.5331 of 2019, wherein Hon'ble the Supreme Court vide order dated 5.7.2019 directed that the proceedings before the High Court shall remain stayed. During the pendency of aforesaid SLP, the petitioner moved an application before the Trial Court seeking permission to go abroad for the purpose of medical treatment in respect of ailment of his wife, which was declined by the Trial Court. Thereafter, the said order was challenged by the petitioner before Hon'ble the Supreme Court. Hon'ble the Supreme Court vide order dated 28.6.2021 passed in Criminal Appeal No.534 of 2021 modified the directions, which had been issued by this Court vide order dated 22.2.2019. The operative part of order dated 28.6.2021 reads as under:

“7. In the above facts and circumstances, we are of the view that the condition imposed by the High Court for the grant of bail should be suitably modified having due regard to the fact that the appellant has deposited an amount of Rs 31.52 crores towards the demand of tax. The Court has also been apprised of the fact that an appeal has been filed against the assessment. In the circumstances, we order and direct as follows:

- (i) The bail which was granted by this Court by its order dated 5 July 2019, is confirmed;
- (ii) The passport of the appellant shall be returned to him only for the purpose of enabling him to visit Abu Dhabi for the medical treatment of his spouse between 5 July 2021 and 18 August 2021;
- (iii) The direction in (ii) above, is subject to the condition that the appellant shall before obtaining the release of his passport, file an unconditional undertaking before this Court that he shall immediately upon the expiry of the period so stipulated return to

India and shall be available to face trial in the proceedings arising out of FIR No 3 dated 1 August 2018 in respect of which a charge-sheet has been filed after investigation before the competent court; and

(iv) On the return of the appellant, the passport shall be deposited with the trial Court.”

6. Learned counsel for the petitioner submits that since the petitioner is having pharmaceutical business and is required to go abroad frequently in connection with his business meetings, therefore, his passport may be returned to him permanently so as to avoid undue inconvenience to the petitioner as well as to the Court as he is otherwise required to approach the Court every time he has to go abroad.
7. On the other hand, learned State counsel has opposed the petition on the ground that since a specific condition had been imposed by Hon’ble the Supreme Court regarding deposit of the passport in the Trial Court, the petitioner cannot make any such prayer for permanent release of his passport before this Court.
8. Learned counsel for the petitioner, at this stage, submits that he restricts his prayer to issuance of directions to the Trial Court concerned that in case any application is moved for seeking permission to go abroad by the petitioner, the same be decided expeditiously, as on the previous occasion the same had remained pending for 3-4 weeks and that sometimes on account of delay, the very purpose to go abroad stands defeated. Learned counsel submits that the petitioner, in order to prove his *bonafides*, is willing to furnish liquidable surety for a substantial amount in advance before the Trial Court.

9. This Court is of the opinion that the restricted prayer made on behalf of petitioner is fair and reasonable as the Courts, in any case, are expected to deal with such applications expeditiously. The petition as such is accepted and it is directed as under:

- (i) that, the petitioner, as per his offer, shall deposit an amount of Rs.1 crore in FDR in some Nationalized Bank and submit such FDR in Court with an undertaking not to encash the same except with permission of the Court;
- (ii) that the Court upon submission of such FDR shall issue specific direction to bank concerned not to entertain any request for its encashment except under orders of the Court;
- (iii) that in case any application seeking permission to go abroad is filed by petitioner before Trial Court and the Trial Court upon considering allows the same, the aforesaid FDR may be treated as surety/security on behalf of petitioner for the purpose of such overseas visit. In case of any default on part of petitioner, the Trial Court may chose to forfeit the same. An undertaking in this regard may be taken from petitioner beforehand at the time of furnishing FDR in Court indemnifying his overseas visits, if permitted;
- (iv) that it shall be open to Trial Court to impose any other condition, as deemed appropriate for ensuring timely presence of petitioner in the Court, at the time of granting permission, if granted, to petitioner to go abroad and to insist on furnishing any undertaking as deemed necessary;

- (v) that as and when any such application seeking permission to go abroad is moved, the Trial Court shall endeavour to dispose of the same expeditiously preferably within a period of less than 10 days from filing of such application provided a copy of such application is furnished to the State counsel in advance;
- (vi) that the aforesaid directions regarding an advance deposit of Rs.1 crore in FDR are being issued so as to facilitate expeditious releasing of passport in case the Trial Court accepts the application.

10. The instant petition stands disposed off accordingly.

17.5.2023

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No