

CRM-M-11081-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11081-2022 (O&M)

Date of Decision:- 29.04.2023

Vishal Singh Dahiya

...Petitioner

Vs.

State of Haryana and Another

...Respondents

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Ms. Kavita Arora, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, Assistant A.G. Haryana.

Mr. Ashok Kumar Jindal, Advocate
for respondent No. 2.

AMARJOT BHATTI, J. (Oral)

CRM-18565-2023

This is an application filed by the learned counsel for the petitioner under Section 482 Cr.P.C. for placing on record photocopies of the interim orders Annexures A-1 to A-10 respectively.

For the reasons enumerated in the application, the same is allowed. Accompanied documents Annexures A-1 to A-10 are taken on record.

CRM stands disposed of.

CRM-M-11081-2022

Vishal Singh Dahiya has filed petition under Section 482 of Cr.P.C. for quashing of impugned order dated 08.03.2022 (Annexure P-8) passed by learned Judicial Magistrate First Class, Gurugram, whereby

exemption application filed by the petitioner was rejected and his bail bonds have been cancelled and a direction has been issued for sending intimation to the Visa authorities and the Indian Embassy in UK to cancel the Visa of the petitioner which he has taken for his future studies on the ground that on 08.03.2022, the petitioner could not appear before the Court of learned Judicial Magistrate First Class, Gurugram in FIR No. 71 dated 02.07.2021, under Section 323, 34, 354, 406, 498-A, 506 of IPC, registered at Police Station Women, West Gurugram, District Gurugram.

Learned counsel for the petitioner argued that the petitioner is having matrimonial dispute with his wife Priyanka regarding which the aforesaid FIR has been registered. Copy of FIR is Annexure P-2. The petitioner is qualified Engineer in Bio Technology from GGSIPU University Dwaraka, New Delhi. He applied for higher studies in U.K. University of Greenwich London for full time two years course of M.Sc “Applied Food Safety and Quality Management with Industrial Practice”. His sister is also settled in London. He received offer letter from the said University on 16.06.2021. The petitioner deposited first installment of fee on 02.07.2021 to the University. In order to stop him from going abroad, the respondent No. 2 got registered a false FIR against him. By that time, the first installment of fee was already deposited and later on he deposited the remaining installments also. He has placed on record the fee structure of the University Annexure P-3. The petitioner applied for anticipatory bail which was allowed vide order dated 01.09.2021 Annexure P-4. The said course of the petitioner was to start on 13.09.2021. During this period, there was peak of Covid-19 in the State of Delhi and surrounding areas of Gurugram. He filed application dated 16.09.2021 before the learned

Magistrate seeking permission to go abroad for further studies. He had also

filed regular bail application by appearing before the learned Judicial Magistrate First Class, Gurugram which was allowed vide order dated 28.09.2021, Annexure P-5 and he was directed to furnish requisite bonds to the tune of Rs. 50,000/- with one surety in the like amount. No condition was imposed upon the petitioner while granting regular bail. On 16.09.2021, when his application seeking permission to go abroad came up for hearing, the same was declined vide order dated 29.09.2021, Annexure P-6. The facts of the case were not rightly considered by the trial Court. Thereafter, he filed revision bearing CRR No. 28 dated 23.11.2021, challenging the said order through his sister as Special Power of Attorney. The said revision was also declined vide order dated 07.02.2022, Annexure P-7. Due to Ukraine and Russia war, the flights were not coming to India, therefore, he could not come and appear before the Judicial Magistrate First Class, Gurugram on 08.03.2022. By that time, the petitioner was to submit his assignments before the University of Greenwich, London and his course had already started. The learned Magistrate by passing impugned order dated 08.03.2022 declined the exemption allowed as well as cancelled the bail granted in his favour and further issued directions to the Indian Embassy in U.K. to cancel his Visa without issuing any notice or show cause for the same. The impugned order is Annexure P-8. It is argued that the petitioner was always ready and willing to face the trial. Learned counsel for the petitioner has placed on record the copies of interlocutory orders passed by learned Magistrate in the aforesaid trial, Annexures A-1 to A-10. It is further argued that he could not appear in the Court due to aforesaid circumstances. The direction given by learned Judicial Magistrate First Class sending intimation to Visa

authorities and the Indian Embassy in U.K. to cancel his Visa issued for future studies is without justification and harsh. Now, he is regularly appearing before the trial Court and till date, the statement of the complainant has not been recorded. The learned counsel for the petitioner pointed out that the petitioner has completed his course but he has to receive his degree/certificate by going to the said University. The petitioner is ready to abide by the terms and conditions imposed by the trial Court. Therefore, the aforesaid direction issued by the learned Judicial Magistrate First Class, Gurugram may be quashed.

Learned counsel representing the State and learned counsel for respondent No. 2 opposed the petition by alleging that the petitioner had gone abroad without seeking permission of the Court. He has misused the concession of bail granted in his favour. However, it is conceded that the petitioner is facing trial and at present the case is fixed for prosecution evidence. It is argued that there is every likelihood that the petitioner may again abscond and the proceedings of the trial will be adversely affected. Therefore, the petitioner is not entitled for any relief.

I have considered the arguments and have gone through the record carefully. The facts of the case are not much disputed. In the case in hand, the present petitioner is an accused in FIR No. 71 dated 02.07.2021, under Section 323, 34, 354, 406, 498-A, 506 of IPC, registered at Police Station Women, West Gurugram, District Gurugram on the written complaint of his wife Priyanka – respondent No. 2. The copy of FIR is Annexure P-2. The petitioner Vishal Singh Dahiya and Omwati were granted anticipatory bail by learned Additional Sessions Judge, Gurugram vide order dated 01.09.2021, which is Annexure P-4. As per this order, the conditions were imposed upon him under Section 438(2) Cr.P.C. and as

per one of the condition, he could not leave the country without prior permission of the Court. There is copy of order dated 29.09.2021, Annexure P-6 vide which Vishal Kumar Dahiya had filed application seeking permission to go abroad for the purpose of higher studies in the University of Greenwich, London for a full time, two years course of M.Sc was declined and he had further submitted that he was ready to appear in the Court on each and every date of hearing. However, the said application was declined vide order dated 29.09.2021, Annexure P-6. Vishal Kumar Dahiya through his attorney filed revision against the aforesaid order which was also declined vide order dated 07.02.2022, which is Annexure P-7. In the meantime, the petitioner had gone abroad. On account of non-appearance of the present petitioner, the bail of the accused was cancelled and the bonds were forfeited to the State and his non-bailable warrants of arrest were issued for 11.04.2022. Notice to the surety and identifier was also issued and in the said order dated 08.03.2022, Annexure P-8, it was observed that intimation was sent to the Passport authorities as well as Indian Embassy in U.K. to cancel Visa of accused. Thereafter, there is copy of order dated 11.04.2022, Annexure A-1, vide which the petitioner surrendered in the Court and he was sent to judicial custody. Ultimately, as per the directions of the Hon'ble High Court vide order dated 04.04.2022, he was granted bail and the bail bonds were furnished by him and he was released from custody vide order dated 13.04.2022, which is Annexure A-3. Since then, the present petitioner is on bail and he is facing the trial. Considering the aforesaid factual position, the relief claimed by the petitioner regarding quashing of order dated 08.03.2022 vide which his exemption application was declined and his bail bonds and surety bonds

were cancelled and forfeited to the State has become infructuous.

As per order dated 22.04.2022, Annexure A-5, the petitioner had surrendered his Passport in compliance to the orders of Hon'ble High Court in Criminal Miscellaneous M No. 11081 of 2022. The charge-sheet in this case has been framed as per order dated 11.07.2022, Annexure A-6 and the case is fixed for prosecution evidence. As per the copies of orders Annexure A-7 to A-10, till date the complainant has not turned up to depose in the Court and the case is being adjourned from time to time. The main grievance of the petitioner is regarding the directions issued by the learned Magistrate sending intimation to Visa authorities and Indian Embassy in U.K. to cancel the Visa of the petitioner issued for his future studies. The learned counsel for the petitioner pointed out that the petitioner has completed his course and he may have to go to the University to receive his degree/certificate. Moreover, the petitioner has already appeared before the trial Court and granted regular bail as per the directions of Hon'ble High Court. He has also surrendered his Passport. The primary objective of the aforesaid proceedings was to procure the presence of the accused and that objective has been achieved. The direction given by the learned Magistrate for the cancellation of his Visa for study purposes is harsh. The petitioner being citizen of India has got every right to go abroad for his studies or job for better prospective. Therefore, the direction given by the learned Judicial Magistrate First Class, Gurugram is uncalled for. The trial Court in order to procure the presence of the petitioner could have followed the procedure as mentioned in the Cr.P.C. Thus straightaway giving direction to the Visa authorities or Indian Embassy in U.K. to cancel the Visa is harsh. Considering the aforesaid facts, the petition filed by the petitioner – Vishal Singh Dahiya is

partly accepted by quashing the aforesaid directions issued by the learned
Judicial Magistrate First Class, Gurugram.

The petition is accordingly, disposed of.

29.04.2023
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(AMARJOT BHATTI)
JUDGE

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