

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

270

CRM-M-18460-2023

Date of Decision: 02.05.2023

Balinder Singh Minhas and Another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. N.K. Banka, Advocate for the petitioners

Mr. Vipin Pal Yadav, Addl. AG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioners through instant petition under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') are seeking permission to go abroad i.e. USA from first week of May, 2023 to last week of July, 2023.

2. Learned counsel for the petitioners *inter alia* contends that marriage of son of the petitioners is fixed for 15.05.2023 in California, USA. An FIR No.67 dated 20.05.2017 was registered against the petitioners under Sections 177/406/420/498-A of IPC registered at Police Station City Hoshiarpur, District Hoshiarpur. Section 376 of IPC was added later on. Till date, neither cancellation nor challan has been presented against the petitioners. The right to travel as upheld by the Constitutional Bench of Hon'ble Supreme Court in '*Maneka Gandhi Versus Union of India*' 1978 (1) SCC 248, is part of fundamental right guaranteed by Article 21 of the Constitution of India.

Petitioner No.1 is a retired Army man and petitioner No.2 is a retired school teacher and both of them are getting pension, thus, there is no possibility of flee from justice and their contention is vindicated from the fact that the FIRs was registered seven years back and they never attempted to flee from justice. They are residents of Hoshiarpur and having their own house and approximately value of which is Rs.80 Lacs. The petitioners are ready to furnish security of the said house which is in the name of petitioner No.1.

3. Learned State counsel confirms that till date no challan has been filed and he does not dispute afore-state factual position. He further submits that there is possibility that petitioners may not come back to India to face trial and if permission is granted, it must be subject to stringent conditions.

4. I have heard learned counsel for the parties and perused the record.

5. Keeping in mind that:-

- i. the petitioners are ready to furnish security in the shape of their house which is in the name of petitioner No.1;
- ii. the petitioners are retired Government Officials and are getting pension;
- iii. they are going for a short span i.e. almost 2 months;
- iv. the FIR was registered on 20.05.2017 and till date challan has not been presented;

v. the petitioners in view of judgment of a Constitutional Bench judgment of Hon'ble Supreme Court in *Maneka Gandhi (supra)* has fundamental right to travel abroad;

vi. the petitioners have undertaken not to dispute the proceedings on the ground of their absence;

this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The petitioners are permitted to visit USA from 13.05.2023 to 31.07.2023 subject to the following conditions:-

- i. The petitioners shall furnish security of afore-stated house before the Illaqa Magistrate;
- ii. The petitioners shall return by 01.08.2023;
- iii. The petitioners shall not dispute the proceedings on the ground of their absence;
- iv. The petitioners shall furnish address of U.S.A as well as mobile number to be used there to the Illaqa Magistrate.

(JAGMOHAN BANSAL)
JUDGE

02.05.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>