

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.20407 of 2023
Date of decision: 16th August, 2023

Avtar Singh

... Petitioner

Versus

State of Punjab & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. P.S. Ahluwalia, Advocate for the petitioner.
Mr. Subhash Godara, Addl. Advocate General, Punjab
for the respondent/State.
Mr. B.S. Rana, Senior Advocate with
Mr. Gaurav Sharma & Mr. Nayandeep Rana,
Advocates for the complainant/respondent No.2.

MANJARI NEHRU KAUL, J.

1. The petitioner, by way of this petition, is seeking permission to travel back to his country of residence, with a further prayer to exempt his personal appearance in case FIR No.01 dated 08.03.2013 (Annexure P-1) for offences punishable under Sections 406, 420, 120-B IPC registered at Police Station NRI, District Kapurthala.

2. Learned counsel for the petitioner submits that it is a matter of record that the petitioner, who admittedly is a British citizen, had been granted permission to travel abroad on previous occasions, and not even on a single occasion he had misused the said concessions as he had always abided by the conditions imposed on him by this Court and

returned back in time. In support, learned counsel has drawn the attention of this Court to the various orders of this Court, which have been annexed as Annexures P-12, P-13, P-14 and P-15. Learned counsel has, in particular, invited the attention of this Court to order of this Court dated 09.02.2018 (Annexure P-14), wherein a Coordinate Bench of this Court had granted liberty to the petitioner that in case he was to travel abroad during the pendency of the case, he would move an application before the trial Court concerned, which would then decide it in the light of its order passed in CRM-M No.10 of 2018. Learned counsel has urged that thus it was in the light of the liberty granted to the petitioner in the aforementioned case, he had moved an application before the trial Court concerned, however, the Court concerned declined his prayer for traveling abroad by erroneously observing that the petitioner had withheld from the Court below that proceedings had been stayed in the FIR in question by this Court. Learned counsel has drawn the attention of this Court to Annexure P-3, which was the application moved by the petitioner before the lower Court, for release of his passport and for permitting him to travel to UK. He submits that in paragraph No.12 of the said application, it was categorically stated that this Court had been pleased to stay proceedings before the trial Court. Learned counsel submits that a perusal of the impugned order dated 29.03.2023 (Annexure P-5) reveals that the only ground for not entertaining his prayer for traveling abroad was the

alleged concealment of the proceedings having been stayed by this Court. Learned counsel thus, submits that since no such concealment had been made, his application for traveling abroad could not have been dismissed on the said ground and rather should have been decided as per the directions given by this Court in CRM-M No.10 of 2018.

3. Learned State counsel assisted by learned senior counsel for the complainant have, however opposed the prayer and submissions made by the counsel opposite for permitting the petitioner to travel abroad. It has been submitted that there was every likelihood that the petitioner, who is a British citizen, may not return to India, more so since investigation was still underway. However, learned counsel for the respondents have not been able to dispute that liberty had indeed been granted to the petitioner to approach the trial Court concerned as and when he wished to travel abroad. It has also not been disputed by the learned counsel for the respondents that the petitioner had never misused the said concession, as he had always abided by the conditions imposed upon him whenever he traveled abroad.

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

5. It is apparent that the trial Court has fallen into an error by observing that there had been concealment by the petitioner qua the proceedings having been stayed in the FIR in question by this Court. Paragraph No.12 of the application (Annexure P-3) clearly reveals that

the petitioner had categorically stated that the proceedings had been stayed by this Court. In the facts and circumstances as enumerated hereinabove, the matter is remanded back to the trial Court concerned with a direction to decide the application of the petitioner for release of his passport and for granting him permission to travel to UK, in accordance with law.

6. The petition stands disposed off accordingly.

(MANJARI NEHRU KAUL)
JUDGE

August 16, 2023
rps

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