

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

CRM-M-23104-2023

Date of decision : 26.05.2023

Manjit Singh**....Petitioner****versus****State of Punjab and another****....Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********Present :- Mr. Param Preet Singh Brar, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Damandeep Singh, Advocate
for respondent No.2.*********RAJESH BHARDWAJ, J.**

Petitioner has approached this Court by way of filing the present petition impugning the order dated 12.04.2023 passed by learned Judicial Magistrate Ist Class, Faridkot in a complaint case bearing COMI-160-2019 dated 09.10.2019, under Sections 326, 324, 323, 341, 148, 149, 120-B of IPC, registered at Police Station City Kotkapura whereby the application filed by him for permitting him to go abroad i.e. Canada for a period of six months has been declined.

Succinctly, the facts of the case are that the petitioner along with five other persons has been prosecuted by respondent No.2-complainant in the complaint filed under Sections 326, 324, 323, 341, 148, 149, 120-B of the Indian Penal Code. Petitioner along with other accused has been summoned by the trial Court vide order dated 03.11.2022. After having been summoned, the petitioner approached the

Court of learned JMJC for granting him permission to go to Canada on

the ground that his son and daughter-in-law are living there and his daughter-in-law is in the family way and her expected date of delivery is in the month of May, 2023. Learned trial Court however, declined the same vide impugned order dated 12.04.2023. Aggrieved by the same, petitioner is before this Court praying for setting aside the impugned order and granting him permission to visit aboard as there is no one else to look after his daughter-in-law besides his son who is also employed in Canada.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in this case wherein the petitioner has been alleged to have participated in the alleged occurrence and has been given a cock and bull story in the statement of the injured-complainant. He has submitted that the injury falling under Section 326 IPC has not been attributed to the petitioner and the same has been attributed to the co-accused. He submits that the presence of the petitioner is required to help his son and daughter-in-law in the crucial phase of their life. He further submits that the petitioner is a senior citizen and he has no criminal antecedents. He further submits that petitioner is ready to abide by the terms and conditions as imposed by this Court and would return after completing the period as granted by this Court. He submits that in the present occurrence there is a cross-version as well and there is no question of the petitioner of not returning to India to face the proceedings. He has contended that right to travel is a facet of personal liberty and is granted to the petitioner under Article 21 of the Constitution of India. He has submitted that during the pendency of the trial, with the intervention of the respectables, petitioner has settled the dispute

amicably with the respondent-complainant and thus, the matter has been compromised. He submits that in view of the compromise arrived at between both the sides, the prosecution of the petitioner even otherwise is nothing but an abuse of the process of the Court.

Per contra, learned State counsel has submitted that the petitioner has been prosecuted on the basis of the complaint filed by respondent No.2 and not in the FIR registered by the State. However, there are allegations made by the complainant against the petitioner and he has been summoned by the trial Court on the basis of the preliminary evidence produced before it.

Learned counsel for the complainant has affirmed the submissions that the petitioner and the complainant have settled the dispute amicably. The compromise dated 06.04.2023 arrived at between both the sides has also been placed on record.

After hearing counsel for the parties and perusing the record, it is apparent that the petitioner has been prosecuted in the complaint filed by the respondent in which he has been summoned. As submitted before this Court, the petitioner has allegedly given a kick blow in the chest of the complainant. However, the injury falling under Section 326 of IPC has been allegedly attributed to the co-accused. As submitted by both the counsel before this Court that the matter has already been compromised between the petitioner and the complainant by way of compromise dated 06.04.2023. There is nothing on record to show that the petitioner has any criminal antecedents. The son and daughter-in-law of the petitioner are residing in Canada and the expected date of delivery of the daughter-in-law is on May, 2023. There is no denial to the fact that right to travel

abroad is also a facet of Article 21 of Constitution of India. Petitioner has undertaken to abide by the terms and conditions if any imposed upon him while granting him permission to visit abroad.

In the overall facts and circumstances, this Court is of the opinion that the petitioner deserves to be granted the permission for travelling to Canada.

Resultantly, present petition is allowed. Petitioner is permitted to visit Canada for a period of three months commencing from 05.06.2023 to 04.09.2023 subject to his depositing Rs.10.00 lacs before trial Court as security in the shape of FDR in the name of Court for a period of four months. Petitioner is also directed to file an affidavit mentioning therein all the moveable and immovable properties/assets owned by him along with the abovesaid FDR.

Needless to say that if petitioner fails to abide by the terms and conditions of compromise, the security deposited would be forfeited to the State.

26.05.2023
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

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