

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CRM-M-25127-2023 (O&M)

Date of decision: 17.05.2023

Navdeep Kaur and another

....Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sukhcharan Singh Gill, Advocate for the petitioners

Mr. Manipal Singh Atwal, DAG Punjab

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 of Cr.P.C. for permission to the petitioners to travel abroad and quashing the order dated 08.05.2023 passed by learned CJM Barnala, rejecting the application filed by them seeking to visit Canada.

2. Learned counsel contends that the petitioners, who are sister-in-law and brother-in-law of Samandeep Kaur wife of the deceased were granted interim anticipatory bail by this Court vide order dated 07.12.2022, which was later on made absolute vide order dated 23.02.2023, have Post Graduation Work Permit by Immigration, Refugees and Citizenship, Canada, whereafter they were residing and working in Canada till 29.01.2023. The said permit is going to expire on 20.05.2023 and have been advised to re-apply for extension before the said date. Reliance in this regard is made to email dated 31.03.2023, Annexure P-4, received from Immigration, Refugees and Citizenship, Canada. Learned counsel makes a reference to para xvi of this petition, wherein it has been stated that in order to

extend the work VISA, three pay cheques are required as per the norms of Immigration Department, Government of Canada. Thus permission to go abroad for 3 months is being sought. He submits that challan has also been presented on 17.04.2023. Affidavits dated 11.05.2023 executed by the petitioners are annexed as Annexure P-7 *inter alia* stating therein that they will fly on 19.05.2023, if granted permission and return on 09.09.2023 for which purpose Air tickets have also been booked and to substantiate the aforementioned facts reference is also made to the Air tickets, Annexure P-6. He further submits that petitioners are ready to furnish bank guarantees and comply with any other conditions that this Court may deem fit for granting the said permission and during this time they shall appear through their counsel. On their return they shall surrender their passport within five days. He further relies on an order passed by this Court, Annexure P-3, whereby permission was granted to Samandeep Kaur for 2 months, whereafter she has returned to India and is regularly appearing before the trial Court.

3. Learned State counsel opposes the petition on the ground that in case the permission is granted, there is apprehension of petitioners not returning. However, he is unable to controvert the fact that the petitioners had joined the investigation, challan stands presented and thereafter they are regularly appearing before the trial Court as also co-accused Samandeep Kaur has returned and joined the proceedings as well as complied with the conditions mentioned in the order granting permission to go abroad by this Court.

4. Heard.

5. With regard to grant of permission, it is apposite to make a reference to the judgment of Hon'ble The Supreme Court in the case of **Parvez Noordin Lokhandwalla vs. State of Maharashtra and another**, (2020) 10 SCC 77,

wherein the relief to travel abroad was granted, as was in the case of **Srichand P. Hinduja vs. State through CBI, New Delhi**, 2002 (3) RCR (Crl.), 186, wherein a condition to execute a bond was imposed while granting such permission. Further in the case of **Satish Chandra Verma vs. Union of India and others** 2019(2) SCT 741, it was held that “The right to travel abroad is an important basic human right for it nourishes independent and self-determining creative character of the individual, not only by extending his freedoms of action, but also by extending the scope of his experience. The right also extends to private life; marriage, family and friendship are humanities which can be rarely affected through refusal of freedom to go abroad and clearly show that this freedom is a genuine human right. (See *Mrs. Maneka Gandhi v. Union of India and Another* (1978) 1 SCC 248). In the said judgment, there is a reference to the words of Justice Douglas in *Kent v. Dulles* 357 US 116 which are as follows: “Freedom to go abroad has much social value and represents the basic human right of great significance.”

6. Considering the judgments of Hon’ble The Supreme Court of India, right to travel abroad being an important basic human right, on one hand and the right of the prosecution to duly prosecute the petitioners, so as to prevent them from evading the trial on the other, thus, a balance between the same is required to be drawn. Paramount consideration is laid to the conditions to be imposed upon the petitioners, to ensure, they do not flee from justice.

7. Keeping in view the afore-referred judgments and the facts and circumstances of the case, in particular that the petitioners are required to go to Canada for the purpose of extending their Work Permit in terms of the email dated 31.03.2023, Annexure P-4 received from Immigration, Refugees and Citizenship,

Canada and have complied with the condition of grant of anticipatory bail, pursuant to which they had joined investigation and co-operated with the investigating agency, thus the order was confirmed; return tickets from Canada have been appended as Annexure P-6, prayer of the petitioners is accepted, subject to the following conditions:

- 1) Petitioners i.e. Navdeep Kaur and Kamaldeep Singh Gill shall furnish two sureties in the sum of Rs.25 lacs each, to the satisfaction of the concerned trial Court/Duty Magistrate.
- 2) Petitioners shall also furnish an undertaking by way of their affidavits, to appear on 15.09.2023 and surrender their passport forthwith.
- 3) Upon the acceptance of the sureties and also upon giving the undertaking, as directed aforesaid and after specifying the date of return in the aforesaid manner, the passport of the petitioners shall be released to them to go abroad.
- 4) During the period of the petitioners being abroad, they shall be permitted to appear through their counsel.
- 5) The petitioners shall not visit any other country except Canada, during the said period for which the permission to travel abroad has been granted by this Court.
- 6) Copy of this order be sent to the Canadian Embassy at New Delhi.

8. It is made clear that in the eventuality of petitioners not returning by the stipulated date, the State is at liberty to file an application seeking cancellation of bail granted to them by this Court.

9. Disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

17.05.2023
S.Sharma(syr)

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