

2023:PHHC:146579

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

273

CRM-M-53355-2023

Date of decision : 08.11.2023

Daljit Singh and another**..... Petitioners**

versus

State of Punjab**..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Mohit Garg, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Vivek Singla, Advocate and
Ms. Urvashi Singh, Advocate
for the complainant.

PANKAJ JAIN, J. (Oral)

1. Petitioners herein pray for permission to travel abroad and quashing of impugned order dated 06.10.2023 (Annexure P-11) passed by the Additional District & Sessions Judge, Jalandhar whereby their application seeking leave to travel stand declined.

2. Petitioners were booked in FIR No.258 dated 20.11.2012, registered for offences punishable under Sections 307, 115, 120-B of IPC and Sections 25/54/59 of Arms Act at Police Station Division No.7, Jalandhar. The aforesaid FIR came into being on the confessional statement made by Parshotam Kumar @ Lalli, alleging as under:-

“I am resident of the village Bajrawar, rest of family is also residing in Italy permanently. Whenever I visit my village then I reside only alongwith my friend Pawan Kumar son of Som

2023:PHHC:146579

Nath caste Rajput and Kulwinder Singh Kaka son of Som Nath caste Saini residents of Bajrawar. I on dated 31 October 2013 came to Punjab on the proposal of Daljit Singh and Jasbir Singh who are the residents of my village and reside at Norway and Daljit Singh and Jasbir Singh gave me 2 lacs Indian currency and said that Vikramvir Singh is to also to visit India, he harasses our daughter, he is to be taught a lesson. I upon coming to India told the whole matter to Pawan Kumar and Kulwinder Singh @ Kaka. On dated 20.11.13 time around 8.30 AM, I made a phone call to Pawan Kumar to meet me at Bus Stand Hoshiarpur. That after some time Pawan Kumar alongwith Kulwinder Singh @ Kaka met me at Bus Stand Hoshiarpur where I already by having a talk with Gurmail Singh called the 8/10 contract killers. I by coming out of my Indica car No. PB-12-D-4118 told Pawan Kumar and Kulwinder Singh @Kaka that Daljit Singh son of Karam Chand and his cousin (son of Chacha) Jasbir Singh son of Atma Singh who are residents of our village that the daughter of Daljit Singh is married with the son of Capt. Harminder Singh, Vikramvir Singh, they harass her, they have to be taught a lesson, whatever may be the expenditure. That to fulfill this task. I have talk with my known Gurmail Singh resident of Changali who brought alongwith him Sandeep resident of Rukanshah wala, Mangal Singh resident of Saddushahwala, Harmandeep Singh resident of Saddu Shahwala, Gurnam Singh resident of Hamadwala, Gurjant Singh Bhatti resident of Saddushah wala, Laddi resident of Sherkhan to whom I introduced Kulwinder Singh @Kaka and Pawan Kumar. These people told me that we have

2023:PHHC:146579

already done many tasks of this kind and have murdered many people. They also had pistol, hockey, kirpans etc. I had my Indica car No.PB-12-D-4118 along with me in which I Pawan and Kulwinder Singh were sitting and the people from Ferozepur had their vehicle TATA of black colour No. PB-10-2595 Temporary number. I put forward my Indica car. I by getting race of the building of Urban Estate Phase-II, gave the map to Sandeep Singh etc by getting it prepared and told them to pay the money after the task is done. I had already given twice Rs. 10,000/- Rs 10,000/- to Sandeep. After showing the place I handed over my car to Sandeep Singh, Mangal Singh, Harmandeep Singh, Gurjant Singh @ Bhatti and Laddi Sherkhan and I kept their car and we parked the car at some 7 distance away from the Urban Estate, in which I, Pawan Kumar, Kulwinder Singh and Gurnam Singh kept sitting, Sandeep Singh after 20 minutes by completing the task came in my car and told they have done his work as per my instructions by firing at him. Upon which we took away the cars towards Phagwara, where I, Pawan and Kulwinder Singh by sitting in the Indica car left towards Hoshiarpur and Sandeep Singh and his companions alongwith their respective weapons left towards Ferozepur and I at that time because of firing shots have given Rs. 50,000/- to Sandeep Singh, then on that very night stayed at my sisters residence and handed over the car to Pawan kumar. I threw out the documents of the car. I wanted to go to Italy after getting this work done. When I reached at Delhi Airport, then I showed my passport, visa card, who returned me back because the visa card was incorrect and by

2023:PHHC:146579

hiring a bus I went to Nepal and on the way I had a talk with Daljit Singh, they sent me ticket on email and said that come through Nepal. Then I went to Nepal Airport. They said that bring the PCC, we will not allow you to move forward without PCC. Then I stayed in hotel at Delhi and by going to the Bombay Airport I tried to go to Italy but because of the communication with Daljit Singh and Jasbir Singh on phone, I came to know that look out notice has been circulated. I bought two Sim cards from Nepal, 4 Sim cards from U.P. and 4 Sim cards from Norway and brought one Sim card of Airtel from Punjab. We in connivance of each other by giving inducement of money wanted to harm and to kill Karanveer Singh and Vikramvir Singh but they survived. Today I came to you. You got recorded my confessional statement. Upon which he put his signatures and witnesses put their signatures.”

3. The petitioners claim that even at the time they were booked, they were residing in Norway. In their absence, they were declared as 'proclaimed offenders' vide order dated 13.01.2015 (Annexure P-3). However, the trial qua the other accused proceeded and finally culminated in conviction of Kulwinder Singh @ Kaka, Pawan Kumar and Gurpreet Singh @ Laddi.

4. Counsel for the petitioners however relies upon the finding recorded by the trial Court with respect to offence punishable under Section 120-B to submit that once finding has been recorded that there is no evidence that has come on record to prove charge qua offence punishable under Section 120-B of IPC, it is highly improbable that the petitioners who have been yoked to the present offence merely as

2023:PHHC:146579

conspirators would be convicted. It has been further contended that the petitioners are ready to abide by any condition that this Court may impose that they be allowed to travel to their country of residence i.e. Norway.

5. *Per contra*, Mr. Singla has opposed the prayer made by the counsel for the petitioners with eloquence. It has been contended that the petitioners being citizens and residents of Norway now are least expected to return back to face trial and have disposed off their property over here in India and thus it is not possible that they shall return back. Reliance is being placed upon judgment passed by Coordinate Bench in the case of ***Dajit Singh Pandher vs. State of Punjab and others***, wherein it has been held as under:-

“ xx xx xx

5. The right of a person to travel admittedly cannot be curtailed. However, if the person is seeking to travel that too outside India, during the pendency of a criminal case against him, the Court shall have to be even more circumspect while granting any such permission. Coming to the case in hand, it would be apposite to observe that since the petitioner is a Canadian citizen, his assertion that he should be permitted to travel abroad is devoid of any merit as India too is a foreign country for him and there could be a likelihood that in case the petitioner is permitted to travel to Canada he may abscond.”

6. Having heard rival contentions of the parties and in order to balance the equities, this Court finds that it is no doubt that the petitioners have been booked before this Court and it is also matter of

2023:PHHC:146579

record that in the petition filed by the petitioners i.e. CRM-M-12293-2015, further proceedings before the trial Court qua the petitioners stand stayed. Thus, the right of the petitioners to travel to his native country cannot be curtailed for all times to come. Thus, in order to balance the equities, both the petitioners are directed to deposit Rs.10,00,000/- each in cash before the trial Court so as to minimize the risk. On depositing, the petitioners shall be granted permission by the trial Court to travel abroad for six months.

7. Needless to say, once the petitioners come back and surrender before the trial Court, the amount so deposited shall be returned back. The petitioners shall also file an undertaking before the trial Court that they shall surrender back on **10.05.2024**.

8. Disposed off, accordingly.

(PANKAJ JAIN)
JUDGE

08.11.2023

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Whether speaking/reasoned : Yes

Whether Reportable : No