

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-53278-2023

Date of Decision : November 20, 2023

BALJINDER SINGH @ BALJINDER SINGH SIDHU

-Petitioner

V/S

STATE OF PUNJAB AND ANOTHER

-Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. J.S. Gill, Advocate
for the petitioner.

Mr. Karunesh Kaushal, A.A.G, Punjab.

Mr. Salil Dev Singh Bali, Advocate
for the respondent No.2.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, as instituted under Section 482 of the Cr.P.C., the petitioner has made a prayer for setting aside the order dated 22.09.2023 (Annexure P-1), as passed by the learned Judicial Magistrate Ist Class, Zira, in Complaint No.365 dated 26.11.2011, under Sections 406, 408, 409, 420, 471, 511, 120-B, 148 and 149 of the IPC, whereby, the request of the petitioner to go abroad was declined. The further prayer, as made in this writ petition, pertains to grant of permission to the petitioner to visit Canada.

2. The petitioner, who is facing trial in the complaint (supra), made an application before the learned Magistrate concerned, thereby seeking permission to visit Canada for a period of four months, to attend his domestic work and to manage admission of his children in next class,

as they are dependent upon him.

3. The application (supra) was contested by the prosecution, on the ground, that earlier the petitioner was declared as Proclaimed Offender vide order dated 23.01.2015. He has caused his appearance in the instant case on 03.07.2023, i.e. after about 8 years, therefore, there is every likelihood that he may not return from Canada and may also try to delay the conclusion of trial.

4. The learned Magistrate concerned, taking note of the absence of the petitioner for 8 years, drew an inference that granting him the asked for permission to visit Canada will again delay the proceedings of the case and consequently, he dismissed the application (supra) through drawing the impugned order on 22.09.2023.

5. The drawing of the impugned order (supra) has driven the petitioner to this Court, thereby seeking the relief of his being granted permission to visit Canada.

6. Upon notice of the instant petition, Mr. Salil Dev Singh Bali, Advocate, has caused his appearance on behalf of the respondent No.2. Though he has reiterated the objections, as raised before the learned Magistrate concerned, however, consensus has been arrived at inter se the parties that, in case, the petitioner assures this Court that the trial proceedings will not be affected by his visit to Canada, besides if he gives a heavy surety qua his return from Canada, the asked for permission to visit Canada may be granted to the petitioner.

7. Considering the fact that the petitioner's children are residing in Canada and he also has a settled business there, therefore, depriving

him to visit Canada to see his children and to manage his business would certainly affect his family life as well as his business. Moreover, the learned counsel for the petitioner has also undertaken that they would have no objection in case the trial proceedings progress in the absence of the petitioner and in the presence of his counsel. He has further apprised this Court that the petitioner owns approx. 9 acres of agricultural land, which he is ready to submit as security before the learned trial Court concerned.

8. As a sequel to the observations and undertakings recorded in the preceding paragraph, the instant petition is allowed and the impugned order is set aside. Subject to the petitioner furnishing the security (supra), besides furnishing two local sureties qua his return from Canada, thereupon, the learned trial Court concerned is directed to release the passport of the petitioner, for thereby enabling him to visit Canada w.e.f. 28.11.2023 to 30.03.2024. Moreover, the trial shall continue to proceed in the absence of the petitioner and in the presence of his counsel. If the conditions (supra) are fulfilled, the petitioner shall visit Canada between the period (supra) and shall positively return to India upto 01.04.2024. Upon his return, he shall get his presence marked before the learned trial Court on 02.04.2024 and shall redeposit his passport.

November 20, 2023
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No