

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

(253)

CRM-M-53936-2023

Date of decision: - 03.11.2023

Daljit Singh

....Petitioner

Versus**State of Punjab**

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Gautam Dutt, Advocate
for the petitioner.

Mr. Ferry Sofat, Additional Advocate General, Punjab.

VIKAS BAHL, J. (ORAL)

1. This is the second petition under Section 482 Cr.P.C. seeking permission to go abroad to United States of America from 10.11.2023 to 28.11.2023 during the pendency of trial in case bearing FIR No.07 dated 06.06.2022, under Sections 7, 7A, 13(1)(A)(2) of the Prevention of Corruption Act, 1988 (as amended by P.C. (Amendment) Act, 2018) and Section 120-B IPC (Sections 409, 420, 465, 467, 468 and 471 IPC have been added later on), registered at Police Station Vigilance Bureau, Flying Squad 1, Punjab, at Mohali, District SAS Nagar.

2. Learned counsel for the petitioner has submitted that the petitioner was nominated as an accused in the above-said FIR on 12.07.2022 and was arrested on 13.07.2022 and was granted the concession of regular bail by a Co-ordinate Bench of this Court, vide

order dated 05.09.2022 passed in CRM-M-34487-2022 (Annexure P-2) and since then he has never misused the concession of the said regular bail. It is further submitted that the marriage of the petitioner's first cousin is to be performed from 15.11.2023 to 18.11.2023 at New York and California and for the said purpose, the wedding card and the venue booking agreement have been referred to, which have been annexed as Annexure P-3 along with the present petition. It is stated that the first cousin brother of the petitioner, namely, Karan is a U.S. Citizen and an attorney by profession in USA and he is getting married to Neha, who is also a US citizen, and all the wedding functions are being held at New York and California, which is apparent from the said wedding card. It is further stated that the real sister of the petitioner, namely, Dr. Kailash Kaur's house warming function is to be held at New York from 22.11.2023 to 24.11.2023 at 3 Bridle Path Drive, Old Westbury, New York and a reference with respect to the same has been made to the copy of invitation card and passport (Annexure P-4). It is submitted that apart from the said two reasons, the third reason for the petitioner to visit USA is for the purpose of visiting his cousin brother Surinder Singh, aged 49 years, who had lost his mother and brother and had himself suffered from Chronic heart failure and underwent a heart transplant surgery on 20.09.2023 at Johns Hopkins Hospital in order to prolong his life and he is on mechanical ventilation support. It is further submitted that the petitioner has already purchased air tickets and a copy of the same has been annexed as Annexure P-5 and has submitted that even the return tickets of the petitioner along with his wife and two minor children have

also been purchased and the said tickets would show that the petitioner would depart from USA on 28.11.2023 and reach Delhi on 29.11.2023. It is argued that the petitioner is a permanent resident of the address which has been given in the present petition and is an Advocate by profession and is enrolled with the Bar Council of India vide enrollment No.P-2629/2014 and he is also a registered member of the Punjab and Haryana High Court Bar Association and has no criminal antecedents and there is no likelihood that he will not come back. It is stated that since only the FIR has been registered against the petitioner and the trial is pending, thus, the petitioner has a right to visit USA to attend the marriage of his cousin brother and for the house warming function of his sister. It is further submitted that the petitioner had applied for seeking permission to travel abroad, which has been rejected by the trial Court by observing that the petitioner is an Advocate and there is a likelihood that he would abscond from the process of law without taking into consideration the settled law on the issue. It is further argued that the petitioner would not object his identification at any stage of trial and would not change his present lawyer during his stay abroad and would abide by all the conditions, which would be laid down by this Court. It is stated that the father and mother of the petitioner are residing in India and they are ready to give sureties in favour of the petitioner for his return. In support of his arguments, learned counsel for the petitioner has relied upon judgments of the Hon'ble Suprem Court in “Maneka Gandhi v. Union of India another”, reported as (1978) 1 SCC 248; and “Satish Chandra Verma v. Union of India”, reported as 2019 SCC OnLine SC 2048 and the

judgments of this Court in “Ankur Gupta v. Central Bureau of Investigation”, passed in CRM-M-34106-2023, decided on 20.09.2023; “Bhupinderpal Singh v. State of Punjab”, passed in CRM-M-19734-2022, decided on 30.05.2022; “Amit Sureshmal Lodha v. State of Haryana”, passed in CRM-M-10143-2022, decided on 14.03.2022; “Devinder Sandhu v. State of Punjab”, passed in CRM-M-16262-2022, decided on 25.08.2022; and judgment of Hon'ble Gujarat High Court in “Subhash Daulatra Bhojani v. State of Gujarat”, passed in Special Criminal Application No.1973 of 2013, decided on 13.03.2015.

3. Learned State counsel has opposed the present petition and has referred to the short reply filed by way of an affidavit of Navdeep Singh, PPS, Deputy Superintendent of Police, Vigilance Bureau, Unit SAS Nagar and has submitted that since the petitioner was found to have played a pivotal role in the commission of the offences in the present case as he had collected the bribe amounts from other co-accused persons on behalf of his co-accused Sangat Singh Gilizan, who is his uncle and thus, the petitioner could misuse the said concession to travel abroad and there is every likelihood that he will evade the process of law, flee from justice and would not return back to India to face trial and abscond and thus, the petitioner should not be permitted to go abroad. It is also stated that earlier petition filed by the petitioner to travel abroad i.e. CRM-M-59631-2022 was dismissed as infructuous, vide order dated 28.12.2022.

4. Learned counsel for the petitioner, in rebuttal, has submitted that in the earlier petition, there were different circumstances, which had been stated to be the reason for going abroad and since the said

circumstances were over before the matter could be decided, thus, the same was dismissed as having been rendered infructuous. It is stated that the present petition has been filed on the basis of three circumstances, which have been mentioned in the present petition and survive till date.

5. This Court has heard the learned counsel for the parties and has perused the paperbook.

6. Before adjudicating the present case, it would be relevant to refer to some of the judgments, which have been relied upon by the learned counsel for the petitioner.

7. This Court in **Amit Sureshmal Lodha's case (supra)** had referred to several judgments, in which, it was held that in normal circumstances, permission can be granted to the petitioner to go abroad being his fundamental right to travel abroad. The relevant portion of the said judgment is reproduced as under: -

*“This Court, in the case of **Utkarsh Pahwa Vs. Assistant Director (PMLA), Directorate of Enforcement, reported as 2019(1) Law Herald 870**, had, after considering several judgments on the issue, observed that it can be safely concluded that in normal circumstances, permission could be granted to the petitioner to travel abroad as the right to travel abroad is his fundamental right but the same is to be regulated by imposing conditions. The relevant portion of the said judgment is reproduced hereinbelow: -*

*“5 The law governing the question of grant of permission to the petitioner for travelling abroad during the pendency of the trial has been elaborately discussed by this Court in authority of **Paramjit Kaur vs. State of Punjab's case (supra)** in which reliance was placed on **Srichand P. Hinduja Versus State through CBI, New Delhi 2002(3) RCR (Criminal) 186 (SC)**, **Arun Kapoor vs. State of Haryana 2004(4) RCR (Criminal) 594 (P&H)**, **Brij Bhushan Singal vs. Central Bureau of Investigation 1994 (3) RCR (Crl.) 498 (P&H)**, **Anjal Kumar @***

Angel Kumar vs. State of Punjab 2010(1) RCR (Criminal) 201 and Naginder Singh Rana vs. State of Punjab 2004(3) RCR (Criminal) 912 and on the basis of the said authoritative pronouncements of the Hon'ble Apex Court and this Court, it can be safely concluded that in normal circumstances, permission can be granted to the petitioner to travel abroad being his fundamental right to travel abroad, but the conditions are to be imposed for regulating and securing his presence during the trial.

6. Keeping in view the said ratio of the aforesaid authority of Paramjit Kaur vs. State of Punjab's case (supra), which is applicable to the facts of the present case, in which also the permission has been sought by the petitioner to travel abroad for a short duration for attending the marriage ceremony of his childhood friends and the supporting documents have also been placed on record, I grant permission to petitioner Utkarsh Pahwa to travel abroad for attending the marriage ceremony of his childhood friends Jay at Bangkok during the period from 25.1.2019 to 28.1.2019 and marriage ceremony of Medha Alhuwalia at Turkey from 08.2.2019 to 09.2.2019 subject to following conditions:-

(i) that the petitioner shall not seek extension of the period of his stay abroad at any ground whatsoever except in case of medical emergency and shall return to India from 1st trip by 29.1.2019 and by 10.2.2019 from the second trip.

(ii) that the petitioner shall not visit any other country except Thailand and Turkey.

(iii) that the petitioner shall not in any manner tamper with the evidence of the prosecution;

(iv) that the petitioner shall submit copy of his passport before visit and on return, within one week shall produce his passport in the court for placing on record its copy in respect of his said visit record;

(v) that the petitioner shall execute FDR/bank guarantee to the tune of Rs. 40 Lacs. This amount shall be returned to the petitioner when he will come back from his trips.

7. Resultantly, petition is allowed in the above terms and the impugned order dated 2.1.2019 is set aside.

8. Since the main case has been decided, the pending CM, if any, also stands disposed of."

*The Hon'ble Supreme Court of India in judgment titled **Satish Chandra Verma Vs. Union of India and others**, reported as 2019(2) SCT 741, has also held that the right to travel abroad is an important basic human right and the said right also extends to private life- marriage, family and friendship. Relevant portion of the said judgment is reproduced hereinbelow: -*

*“5. The right to travel abroad is an important basic human right for it nourishes independent and selfdetermining 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.”

Although, in the said case, there were no criminal proceedings pending against the appellant therein and the denial to go abroad was on account of lack of vigilance credence but the aforesaid observation of the Hon'ble Supreme Court is very relevant as it highlighted the right to freedom to travel.”

A perusal of the above-said judgment would show that reference was made to the judgment of “**Utkarsh Pahwa Vs. Assistant Director (PMLA), Directorate of Enforcement**, reported as 2019(1) **Law Herald** 870 wherein permission had been granted to travel abroad for a short duration to the petitioner therein for attending the marriage ceremony of his childhood friends.

8. In **Bhupinderpal Singh's case** (*supra*), this Court had held as under: -

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A coordinate Bench of this Court in Abhijat Paliwal's (supra) case has held as under:-

“This application has been moved by the applicant/petitioner for seeking permission to travel abroad i.e. United States and Spain for the period commencing from 30.07.2018 to 14.08.2018 for attending the business activities during pendency of the petition.

Petitioner Abhijat Paliwal has filed the petition under Section 438 of the Code of Criminal Procedure, 1973 (for short the 'Cr.P.C.') for grant of anticipatory bail to him in case FIR No.1069 dated 14.11.2017 under Sections 403, 405, 409, 415, 418, 420, 463, 465, 471 and 120-B IPC at Police Station Chandni Bagh, Distt. Panipat. That petition is pending after issuing notice of motion before this Court and interim order is also in favour of the petitioner. During pendency of said petition, the present application has been moved for granting permission to travel aboard. The case is under investigation as no challan has been presented so far.

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Undisputedly, right to travel is a fundamental right and there is no law depriving a person of such right. *Admittedly, the investigation is at the initial stage and the applicant/petitioner has undertaken to visit abroad subject to any terms and conditions to be imposed by this Court or by the investigating agency. He also undertakes to return immediately after expiry of period of two weeks and no prejudice would be caused as the investigation is at the initial stage. The delay in initiating the investigation has been caused because of change of Investigating Officer.*

Accordingly, by considering the facts and circumstances of the case, the present application is allowed and the applicant/petitioner is allowed to travel abroad for a period of two weeks i.e. 30.07.2018 to 14.08.2018, subject to following conditions:

(i) The applicant/petitioner is directed to furnish two securities of 10,00,000/- each (a) of 10,00,000/- in cash and (b) 10,00,000/- of immovable property before the Illaqa/Duty Magistrate within a period of three days;

(ii) He is also directed to file an affidavit giving an undertaking that in case he does not come back from United States and Spain within a period of two weeks from the date he leaves the country, the

aforesaid securities shall stand forfeited;

(iii) It is also directed that the applicant/petitioner shall attend the investigation immediately after return to India and to cooperate with the investigation on the dates as directed by the Investigating Officer;

(iv) He is also directed that he shall furnish his address during his stay in aboard;

(v) that he shall not seek extension of his stay abroad on any ground including medical ground;

(vi) that he shall furnish the details of the person to receive the process from the Court during his stay abroad on his behalf.

27.07.2018

Sd/-
(DAYA CHAUDHARY)
JUDGE”

9. Petitioner in the present case wishes to visit USA from 10.11.2023 to 28.11.2023 for the following reasons: -

- (i) The first cousin of the petitioner, namely, Karan, who is US citizen and is an Advocate by profession in USA is getting married to Neha, who also is a US citizen, from 15.11.2023 to 18.11.2023 at New York and California and to prima facie prove the same, a copy of the wedding card and the venue booking agreement has been annexed as Annexure P-3 alongwith the petition.
- (ii) The house warming function of the real sister of the petitioner, namely, Dr. Kailash Kaur is to be held at New York on 22.11.2023 and 24.11.2023 at 3 Bridle Path Drive, Old Westbury, New York and the said fact is prima facie proved from a copy of the invitation (Annexure P-4).
- (iii) It is the case of the petitioner that his cousin brother, namely,

Surinder Singh, aged 49 years, had suffered from Chronic heart failure and had underwent a heart transplant surgery on 20.09.2023 at Johns Hopkins Hospital in order to prolong his life and is on mechanical ventilation support and the petitioner wishes to see him.

10. There is nothing in the reply of the State to suggest that the said pleas are false or that the card and venue booking agreement are not genuine. The petitioner is stated to be an Advocate by profession and is enrolled with the Bar Council of India vide enrolment No.P-2629/2014 and is also stated to be a registered member of the Punjab and Haryana High Court Bar Association and has no criminal antecedents other than the present FIR. The petitioner was granted bail vide order dated 05.09.2022 passed in CRM-M-34487-2022 and it is not the case of the State that the petitioner has ever misused the concession of regular bail granted one year back. The Co-ordinate Bench while granting regular bail to the petitioner, vide order dated 05.09.2022 had observed as under: -

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[19]. Daljit Singh (petitioner) has been nominated as an accused on 12.07.2022 in the present FIR when the case of his uncle was listed in the trial Court. Two statements of DFOs, namely Monika and Nitin were recorded and the petitioner has no connection whatsoever in the context of those statements. The allegations are that the petitioner used to speak to the departmental people. Petitioner was arrested on 13.07.2022 and despite, 8 days of police remand, no recovery was effected from him. The petitioner has not transacted any business dealings on behalf of his uncle and has not committed any wrong, except to pursue the case of his uncle in court of law being an Advocate. Petitioner has no role. FIR is silent about the involvement of the petitioner in the alleged commission of offence. Petitioner has

not been nominated as an accused in the FIR despite the fact the Investigating Agency has claimed that FIR has been lodged after due investigation. FIR has been lodged on the basis of disclosure statement of Harmohinder Singh @ Hummy. He has not uttered a single word against the petitioner or his role in any manner in the FIR. There is no mention of any family member of Sangat Singh Gilzian in the alleged diary. Even during investigation, nothing incriminating has surfaced against the petitioner.

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Challan qua Daljit Singh (petitioner) has not been submitted, but the petitioner remained on police remand for about 8 days and no recovery could be effected from him.

[23]. In view of facts and circumstances of the case and without meaning anything on merits of the case, I deem it appropriate to grant regular bail to the petitioners."

11. It is thus, apparent that the petitioner had raised debatable arguments with respect to his involvement in the FIR and at any rate, the mere involvement of the petitioner in a criminal case cannot be made the basis to reject his prayer to travel abroad, more so, when the petitioner has undertaken to abide by all the conditions to be imposed by this Court. The observations of the trial Court, while rejecting the application seeking permission to go abroad vide order dated 09.10.2023, to the effect that the petitioner is an Advocate and there is every likelihood that he would abscond from the process of law, are based on surmises and conjectures and have no legs to stand. The settled principle of law has not been considered by the trial Court. Petitioner had even produced on record the return air tickets, which have been purchased by the petitioner, his wife and two minor children, which also shows that the petitioner and his family are to leave USA on 28.11.2023 and would reach Delhi (India) on 29.11.2023. Petitioner has already stated that his father and mother are

ready to give sureties for the petitioner's return.

12. Keeping in view the above-said facts and circumstances, the present petition is allowed and the impugned order dated 09.10.2023 is set aside and the petitioner is permitted to go to USA from 10.11.2023 to 28.11.2023 subject to the following conditions: -

- i) The petitioner shall furnish two sureties (father and mother of the petitioner, namely, Joginder Singh and Surinder Kaur), in the sum of Rs.50 lacs each to the satisfaction of the concerned trial Court/Duty Magistrate for ensuring his return from abroad and appearance before the Court.
- ii) After the acceptance of the said sureties, the petitioner would be permitted to go abroad from 10.11.2023 to 28.11.2023 subject to the condition that the petitioner would have to come back to India immediately on the lapse of the said period. The concerned trial Court/Duty Magistrate shall permit the petitioner to go abroad for the said period in case, the sureties so given are to the satisfaction of the concerned Magistrate/trial Court and in case, the petitioner also complies with the other conditions imposed vide the present order.
- iii) The petitioner shall give an undertaking before the concerned trial Court/Duty Magistrate that the petitioner shall return from abroad on the date so specified and appear before the concerned trial Court/Duty Magistrate for the purpose of trial and would not seek any extension with respect to the same.

- iv) During the period of the petitioner being abroad, the personal appearance of the petitioner shall be exempted and the petitioner shall be permitted to appear through his counsel. However, the petitioner would not be entitled to raise the objection that the evidence had been led in his absence.
- v) The petitioner shall not dispute his identity.
- vi) The petitioner shall not in any manner tamper with the evidence of the prosecution.
- vii) The petitioner shall not visit any other country except USA, during the said period for which the permission to travel abroad has been granted by this Court.
- viii) On return, the petitioner shall continue to be bound by the old/previous conditions which were imposed while releasing the petitioner on bail and the conditions imposed for his going abroad, as have been detailed in this order, shall cease to operate.

November 03, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes
Yes