

291

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-57985-2023
Date of decision: 23.11.2023

ANURAG NANDA

...Petitioner

VERSUS

STATE OF HARYANA AND ANR.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Manish Soni, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing the impugned order dated 06.11.2023 (Annexure P-10), whereby the application moved by the petitioner for release of his passport and further for permission to travel abroad has been wrongly and illegally declined by the learned ACJM, Gurugram.

2. Learned counsel for the petitioner submitted that in the present case, an FIR was registered against the petitioner and some other co-accused under Sections 406, 420, 506 and 120-B of the IPC, in which allegations were that the petitioner had purchased some IT equipments for the purpose of further selling but the money was not returned back to the complainant due to the onset of the Covid-19 pandemic and the allegations were that the dispute arose with

regard to more than Rs.4 crores. He further submitted that in fact some of the IT equipments/hardware and some money was also returned back but the same is a matter of trial which can be ascertained at the time of trial. He further submitted that the petitioner filed a petition for grant of anticipatory bail before this Court bearing No.CRM-M-28753-2021, which was allowed by this Court vide Annexure P-2 on 30.05.2022. However, there was an additional condition imposed by this Court that the petitioner will not leave the country without the permission of the Court and the passport had already been surrendered by the petitioner at the time of passing of the order for grant of anticipatory bail. He also submitted that thereafter, the investigation was completed by the police and challan was also presented and now the case is fixed for the framing of the charges. He further submitted that even the anticipatory bail was granted by this Court to the petitioner primarily on the ground that it was one to one financial dispute between the parties.

3. Learned counsel for the petitioner further submitted that the old age parents of the petitioner are residing in Canada and the sister of the petitioner is residing in London, U. K., who is having a matrimonial dispute with her husband and the same is finally required to be settled and for that purpose, the presence of the petitioner is required in London, U. K. so that he can help his sister in finalizing the matrimonial dispute. He also submitted that when the petitioner filed an application before the learned trial Court for seeking permission to travel abroad and to release the passport, the same was declined by the impugned order Annexure P-10 on the ground that the petitioner has not produced on record his travel schedule for visiting London, U. K. and

therefore, such a blanket order for releasing the passport cannot be passed. He further submitted that in the present petition, the travel schedule of the petitioner is already annexed as Annexure P-7, which is an E-Ticket from where it is clear that the petitioner is to leave India on 22.12.2023 to London, U. K. from where he is scheduled to come back on 06.01.2024 to Delhi. He referred to a Constitutional Bench judgment of Hon'ble Supreme Court in **Maneka Gandhi versus Union of India and another, 1978 (1) SCC 248** to contend that the freedom can be restrained only by adopting a just and reasonable procedure and right to travel abroad is a fundamental right. He also submitted that the next date fixed before the learned trial Court is 22.02.2024 and as per his ticket, the petitioner is to return back on 06.01.2024 and reach India on 07.01.2024. He further categorically submitted that the petitioner himself is present in Court today and he has sought specific instructions from him to state that the petitioner will stick to the aforesaid schedule and will not seek any extension of the aforesaid period.

4. On the other hand, Mr. Vishal Kashyap, DAG, Haryana submitted that there is no dispute with regard to the proposition of law that right to travel abroad is a fundamental right but it is a case where the dispute *inter se* between the parties was of more than Rs.4 crores and therefore, there is a likelihood that the petitioner may not return back to India.

5. I have heard the learned counsel for the parties.

6. The short prayer made in the present petition is for quashing the impugned order dated 06.11.2023 (Annexure P-10), whereby the application moved by the petitioner for release of his passport and further for permission to

travel abroad has been wrongly and illegally declined by the learned ACJM, Gurugram and further seeking a direction for permission to travel abroad as per schedule. The reasons have been mentioned by the learned counsel for the petitioner based upon pleadings and also based upon instructions received by him from the petitioner, who is present in the Court. The petitioner has specifically undertaken before this Court that he will stick to the schedule of the ticket given in Annexure P-7. The next date fixed before the learned trial Court is 22.02.2024 and the investigation of the case has already been completed by the police and now the case is fixed for framing of the charges. This Court is of the view that considering the aforesaid facts and circumstances of the present case and the law laid down by the Constitutional Bench of the Hon'ble Supreme Court in Maneka Gandhi's case (supra), permission can be granted to the petitioner to travel abroad for the aforesaid period, subject to imposition of some conditions.

7. Consequently, the present petition is allowed. The impugned order dated 06.11.2023 (Annexure P-10) passed by the learned ACJM, Gurugram is hereby set aside. The petitioner is permitted to travel abroad i.e. London, U. K., in accordance with the schedule of ticket vide Annexure P-7, after release of his passport, subject to the following conditions:-

- (i) The petitioner shall stick to the schedule of ticket which has been so stated in Annexure P-7 and shall return back on the due date as depicted in the ticket.
- (ii) The petitioner shall deposit an amount of Rs.3,00,000/- by way of a Demand Draft before the learned CJM, Gurugram as surety. The aforesaid amount be

thereafter kept in a bank by way of fixed deposit and on the return of the petitioner according to the schedule, the same shall be returned to him along with the interest accrued.

(iii) On the arrival of the petitioner, he shall surrender his passport before the learned trial Court forthwith.

23.11.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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