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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-59464-2023 (O&M)

Date of Decision:15.12.2023

Iqbal Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Baljinder Singh Sra, Advocate for the petitioner.

Mr. H.S. Sitta, DAG, Punjab.

Mr. K.S. Rana, Advocate for respondent No.2.

JASGURPREET SINGH PURI J.(Oral)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing the order dated 15.11.2023 passed by Learned Judicial Magistrate First Class, Gidderbaha (Annexure P-5) in a complaint Case No.Coml/48/2018 dated 10.08.2018 whereby application (Annexure P-3) moved by the petitioner for permission to go abroad has been dismissed.

2. Learned counsel for the petitioner submitted that the alleged occurrence is of the year 2017 and initially an FIR was registered against the petitioner. Thereafter, the police thoroughly investigated the case and submitted the cancellation report. The matter was re-investigated and again for the second time, the police submitted a cancellation report which was clubbed with the earlier cancellation report by the Magistrate concerned. He further submitted that petitioner was infact innocent and twice the police had sent the cancellation report to the Magistrate

concerned. He submitted that thereafter the complainant-respondent No.2 filed a criminal complaint before the learned Trial Court/Magistrate concerned and the FIR was thereafter clubbed with the abovesaid criminal complaint. He further submitted that the matter before the trial court is still at the pre-charge stage, which is pending for the last five years. The petitioner has moved an application before the learned Magistrate for the purpose of visiting abroad since his wife and minor child of the age of 05 years are residing in Canada. He further submitted that earlier also the petitioner had moved an application for getting permission to visit abroad and the same was allowed by the trial court. In pursuance of the permission granted by the trial court, the petitioner had gone abroad but there he suffered leg injuries/fracture and consequently his stay period was extended by the learned Trial Court/Magistrate concerned. He further submitted that thereafter he came back to India within the aforesaid time i.e. the extended time and appeared before the learned Trial Court/Magistrate concerned.

3. He further submitted that the family of the petitioner is residing in Canada and the complaint is still at the pre charge stage and his presence will be required only at the time of the framing of charges. The petitioner has already engaged his counsel who is appearing on his behalf and he undertakes that his counsel will appear on the pre charge stage and as such he may be granted permission for visiting his family in Canada for a period of four months since his presence is required for his minor child of the age of five years.

4. The learned counsel has also submitted that the right to travel abroad is a fundamental right and in the present facts and circumstances even the charges have not been framed because the complaint is still at the

pre-charge stage for the last five years and the police already exonerated the petitioner twice and had preferred cancellation report before the learned Magistrate concerned. In this regard, learned counsel for the petitioner referred to Constitutional Bench judgement of Hon'ble Supreme Court in *Maneka Gandhi Vs. Union of India and Another (1978) 1 SCC 248*. He further submitted that the impugned order by which his permission to go abroad was declined, is liable to be set aside and he also submitted on instructions that he undertakes to abide by the schedule which can be fixed by this court and he will come back to India within the time schedule.

5. On the other hand, Mr. K.S. Rana, Advocate, has caused appearance on behalf of respondent No.2 and has opposed the prayer of the petitioner for grant of permission to visit abroad on the ground that the complaint is already lingering on for the last five years although it is still at the pre charge stage. So far as the submission made by learned counsel for the petitioner that he was exonerated twice by the police and cancellation reports were submitted, he has not disputed the factual position.

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

7. The facts and circumstances of the present case suggest that the alleged occurrence had taken place in the year 2017 and police presented the cancellation report before the learned Trial Court twice and thereafter criminal complaint was filed, which is still at the pre charge stage for the last five years. The petitioner is only seeking permission to go abroad for a period of four months. Earlier he was granted permission and he had gone abroad to visit his family and the time frame that was given by the trial court was also extended as per learned counsel for the

parties and he came back within the extended time. The learned counsel for the petitioner also undertakes on behalf of the petitioner that he will stick to the time schedule as fixed by this Court and his counsel will regularly appear before the learned trial court/Magistrate as and when required. This Court is of the view that in such circumstances permission to visit abroad to meet his family especially his minor child who is in need of the petitioner cannot be denied to him. However, some conditions are required to be imposed in this regard.

8. In view of the aforesaid facts and circumstances, impugned order dated 15.11.2023 to the extent of denying permission to go abroad, is hereby set aside and quashed. Permission is hereby granted to the petitioner to visit abroad i.e. Canada for a period of four months but in any case the petitioner shall return back latest by 30.04.2024 subject to the condition that the petitioner shall deposit an amount of Rs.5,00,000/- in the shape of FD before the learned trial court/Magistrate concerned as a security amount which shall be returned back to him in case he comes back in time.

(JASGURPREET SINGH PURI)
JUDGE

15.12.2023

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