

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2392-2024 (O&M)
Date of order: 22.02.2024

Akash Bhalla

... Petitioner(s)

Versus

Directorate of Enforcement

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Anand Chhibbar, Senior Advocate with
Mr. Karanvir Nanda, Mr. Sajal Bansal & Ms. Ateej Raj Sandhu,
Ms. Shreya Sarin, Mr. Parvez Chaudhary, Kunal Sharma
and Ms. Khyati, Advocates
for the petitioner(s).

Mr. Arvind Moudgil, Senior Counsel, Government of India and
Mr. Lokesh Narang, Senior Counsel, Government of India (through VC)
with Mr. Shahil Rangra, Ms. Bhawna Gandhi, Anil K. Sokal and
Mr. Vivek Singh, Advocates
for respondent-ED.

ANOOP CHITKARA, J.

1. Seeking a quashing order dated 9.11.2023 (Annexure P-2) passed by a Special Judge under PMLA, Haryana, at Panchkula to the extent of surrendering his passport and not allowing the petitioner-accused to leave India without prior permission of the Court, the petitioner has come up with before this Court under Section 482 CrPC. Further prayer has been made to seek the release of the passport of the petitioner to enable him to visit the United States of America (USA) for two months for a medical check-up/treatment of his 3-year-old son Vansh Bhalla, who is suffering from various ailments.
2. Petitioner-Akash Bhalla and his wife Bhavna Bhalla are accused in the complaint case, i.e., ECIR/CDGO-I/04/2023 dated 24.2.2023 filed by respondent-ED and the predicate offense is of cheating and various other offenses, including NDPS Act and Arms Act, etc. by the petitioner Akash Bhalla. Bhavna Bhalla was arraigned as an accused because she allegedly laundered the proceeds of the crime.

3. Learned senior counsel representing the petitioner has submitted that the petitioner-Akash Bhalla, and his wife, Bhavna Bhalla, be permitted to take their minor child, Vansh Bhalla, to the USA for treatment of Ulcerative Colitis, which is a chronic disease. He has further submitted that Vansh Bhalla is a citizen of the USA by birth, whereas Akash Bhalla and Bhavna Bhalla have tourist visas in the USA. He further submits that he has no objection to mentioning the disease of the ailing son of the petitioner in the order.

4. Learned senior counsel representing the respondent-ED has strenuously opposed such permission to Akash Bhalla because there is misappropriation of massive properties, and they are still finding more and more properties in which he is involved, and both husband and wife are the flight risks.

5. The petitioner's Counsel has made an alternative prayer that in the event of not permitting the petitioner-Akash Bhalla, to accompany their son, Vansh Bhalla, abroad, the Bhavna Bhalla, wife of the petitioner, be permitted to take their son to the USA for treatment and she be treated as petitioner in this petition. Learned senior counsel appearing for petitioner on instructions from Mr. Karanvir Nanda, Advocate, assisting counsel, submits that assisting counsel is representing Bhavna Bhalla before the trial Court and he has instructions to undertake on her behalf.

6. I have heard Mr. Chibbar and Mr. Moudgill, learned senior counsel representing the parties regarding the antecedents of petitioner-Akash Bhalla, and in my opinion, he is a flight risk, and as such, the prayer for the release of his passport or permission to visit the USA is rejected.

7. Now, only one parent, i.e., Bhavna Bhalla, who is a mother and not an accused in predicate offenses except in one FIR, in which also, as per Mr. Chhibber, she has been absolved of the charges, is in a better position to take care of their ailing son.

8. However, learned senior counsel representing the ED submits that Bhavna Bhalla has not appeared before the Special Judge on two dates, and charges are yet to be framed. He has also relied upon two reports, one by MAX Healthcare, Mohali, and one by Ex-Senior Resident, PGIMER, Chandigarh, whereby it is stated that all treatment facilities for such diseases are available in our country, and they are treating these patients successfully. But in the opinion of the Court, considering the age and future of the child, who is a citizen of the United States of America by birth, it is appropriate if he gets treatment from a hospital of their choice anywhere in the world, including the USA.

that as per the latest certificate dated 19.2.2024 issued by Dr. Arun Prasad, Child Specialist, Neonatologist, Pediatric Gastroenterologist, handed over by ED in Court today, it is explicitly mentioned as follows: -

“To make things better understandable, Ulcerative Colitis is a chronic disease with no permanent cure. Whatever treatment we do reduces the disease activity.”

10. Given the above, the present petition is partly allowed. Mrs. Bhavna Bhalla, the mother of the ailing child – Vansh Bhalla, is permitted to take her son to the USA for treatment or any other country if so further advised.

11. It is clarified that this initial permission to travel abroad is for six months, which will be permissible to Bhavna Bhalla on a tourist visa. However, if the treatment extends beyond six months, she will have to return to India, report to the investigator and the Court, and seek further permission to go abroad again. However, in case of medical difficulties, if she cannot travel back to India, it shall be permissible for her husband, Akash Bhalla, to file an appropriate application for an extension of her stay, but this will be subject to the condition that Bhavna Bhalla, as well as the petitioner Akash Bhalla, will continue to share the medical treatment of the ailing child from time to time through their counsel to the investigator.

12. Another condition is that Bhavna Bhalla shall share the addresses where she would stay in the USA and her email ID to the investigator and counsel. Further, she will activate an international roaming pack (valid till the date of her return) on the phone number on which she will use WhatsApp, and she will share the mobile number and WhatsApp number and keep the GPS location ON of her phone and shall also share IMEI number of the phone. She will also share all this information with Ms. Bhawna Gandhi, assisting counsel for learned senior counsel appearing on behalf of the ED through email and to the investigator directly. Further, she will be bound to respond to all the investigator's queries through WhatsApp or email. It has been further undertaken on behalf of the Bhavna Bhalla that if she does not return to India within six months, the State may initiate appropriate proceedings to cancel her passport.

13. It is clarified that in case the petitioner violates any of the conditions, then it may be construed against her while granting similar permissions in future and it shall be permissible for the State to file application for cancellation of petitioner's passport.

14. At this stage, Mr. Moudgil, counsel representing ED submits that now the matter is fixed for framing of charges for 15.3.2024. Upon which, Mr. Chhibber, learned senior counsel, representing the petitioner, submits that during the stay of Bhavna Bhalla

abroad, she be permitted to appear through her counsel before the trial Court and she will not claim any prejudice in this regard.

15. Considering the facts and circumstances mentioned above, coupled with the fact that it has been undertaken on behalf of Bhavna Bhalla that she will not claim any prejudice to her representation through counsel, she is permitted to appear before the trial Court at the stage of framing of charges through her counsel. Her counsel will even be permitted to put his signatures on the order of charges on behalf of Bhawna Bhalla. However, the counsel appearing on her behalf shall not seek any adjournments.

16. Mr. Chhibbar submits that after issuance of summons, Bhavna Bhalla was released on interim bail in the regular bail which is listed for 15.3.2024.

17. Given above, trial Court is requested not to pass any adverse orders against Bhavna Bhalla until she returns to India strictly following the terms and conditions mentioned in this order. However, this order has been passed without prejudice to the rights of the ED.

The petition is partly allowed to the extent mentioned above. Any pending application(s), if any, shall stand disposed of.

(ANOOP CHITKARA)
JUDGE

February 22, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	YES