

(307)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9901-2024
Date of Decision:03.04.2024

MANPREET SINGH ALIAS MANI

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. Mohit Saroha, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of the order dated 05.02.2024 (Annexure P-1) passed by the Judge Special Court, Sangrur in case titled as State Vs. Manpreet Singh @ Mani arising out of FIR No.133 dated 29.10.2022 (Annexure P-3) registered under Sections 22, 61, 85 of the NDPS Act at Police Station Dirba, District Sangrur whereby the application to grant permission to visit Surrey in British Columbia (Canada) filed by the petitioner has been dismissed.

2. The brief facts of the case are that an FIR No.133 dated 29.10.2022 (Annexure P-3) came to be registered against the accused persons. On investigation being conducted, the petitioner was found to be innocent and was placed in Column No.2.

3. Meanwhile, the petitioner was granted the concession of bail by this Court vide order dated 03.05.2023 (Annexure P-5) and a condition was imposed upon him that he was to deposit his passport forthwith.

4. The Investigating Agency proceeded to re-investigate the matter. On being aggrieved against the order of re-investigation, the petitioner approached this Court vide CRM-M-56079-2023 seeking quashing of the order of re-investigation and all subsequent proceedings arising therefrom including the supplementary challan.

5. This Court passed the following order dated 20.12.2023 (Annexure P-7) held as under:-

“The learned counsel for the petitioner contends that once the report under Section 173(2) Cr.P.C. had been submitted exonerating the petitioner, a further investigation/reinvestigation could only have been ordered after an application in that regard had been moved before the appropriate Court seeking its permission for further/reinvestigation which is seized of the matter and not unilaterally by a superior police officer. Reliance is placed upon the judgment in ‘Vinay Tyagi versus Irshad Ali @ Deepak 2013(5) SCC 762’.

Notice of motion for 11.03.2024.

In the meantime, further proceedings before the Trial Court qua the petitioner alone shall remain stayed. The Trial may proceed against the other accused.”

6. Meanwhile, the petitioner moved an application seeking permission to travel abroad stating therein that he had applied for Permanent Residency in Canada and in order to keep alive his application, he needed to

return back immediately. The copy of the said application and the letter issued by the Immigration Consultant are attached as Annexures P-8 and P-9 to the petition.

7. However, vide the impugned order dated 05.02.2024 (Annexure P-1), the application seeking permission to travel abroad was declined.

8. It is this order which is under challenge in the present petition.

9. The learned counsel for the petitioner contends that the Trial Court had failed to appreciate the that the petitioner was a resident of Canada and his family stays there. He was required to return back so as to keep alive his application regarding Permanent Residency. As proceedings had been stayed qua him, permission ought to have been accorded to him to travel abroad on the imposition of any conditions that the Court thinks fit. In fact, under normal circumstances permission to travel abroad ought to be granted as the right to travel abroad was a fundamental right. He, therefore contends that the passport of the petitioner be released enabling him to travel to Canada on the imposition of conditions which this Court deems fit.

10. The learned counsel for the State, on the other hand contends that there was every possibility that the petitioner would not return back to face Trial and therefore, permission ought not to be accorded to him. He, however, fairly states that in case appropriate conditions are imposed upon him then he could be granted permission in accordance with law.

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

12. When this matter had been come up for hearing before this Court, on 11.03.2024 this Court had directed the State to verify the details of the property owned by the petitioner. Vide reply dated 01.04.2024, it was revealed that the petitioner had no immovable property. Thereafter, the details of the property of the father of the petitioner were sought and vide reply dated 02.04.2024 it came to light that the father of the petitioner Sukhdev Singh was the owner of land measuring 21 Kanals 12 Marlas the collector rate of which was Rs.24,30,000/-.

13. Admittedly, the family of the petitioner resides in Canada. He has sought Permanent Residency there for which his presence in Canada is necessary. Further, the proceedings qua him has been stayed by this Court. Therefore, at this stage, there is little possibility of the Trial proceeding qua him.

14. In view of the above, I deem it appropriate to order the release of the passport of the petitioner enabling him to travel abroad to Canada subject to the following conditions:-

i) The father of the petitioner namely, Sukhdev Singh shall deposit the original papers of his land measuring 21 Kanals 12 Marlas with the Trial Court.

ii) The Revenue Authorities would make an entry in the record that this property cannot be sold during the pendency of the Trial.

iii) The petitioner shall deposit an FDR of Rs.20 lakhs with the Trial Court which shall stand forfeited if he does not join proceedings if and when require to do so in accordance with law.

iv) The petitioner shall furnish an undertaking that he shall return back to India if and when require to do so in accordance with law.

15. The present petition stands disposed of in the aforementioned terms.

(JASJIT SINGH BEDI)
JUDGE

03.04.2024
JITESH

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