

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

117

CRM-M-37335-2022(O&M)

Date of Decision : 03.04.2024

DR. MANNEN LOKANDHA RAJU

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr.R.S.Bajaj, Advocate,
for the petitioner.

Mr.Pardeep Bajaj, DAG, Punjab.

KULDEEP TIWARI. J.(Oral)

1. Through the instant petition, challenge is thrown to the order dated 17.06.2022 (Annexure P-4), passed by the learned trial Court concerned whereby, his application for releasing of passport and Overseas Citizenship of India (OCI), was declined and order dated 25.7.2022(Annexure P-6) passed by the learned Additional Sessions Judge concerned, whereby, appeal preferred against the order of the learned trial Court concerned was also declined.
2. Learned counsel for the petitioner submits that the petitioner is holding an OCI card, and has a business in the USA, therefore, he is required to visit USA in order to take care of his business.
3. What surfaced upon perusal of the file and the reply filed by the respondent-State is that the petitioner is involved in case FIR No.186, dated 26.10.2016, under Sections 420, 465, 467, 468, 471 and 120-B of

the IPC, registered at Police Station City Rupnagar, as one of the accused. As per the allegations in the FIR, the petitioner alongwith co-accused has committed fraud with the complainant by forging the guarantee papers and on the said guarantee papers, they had got sanctioned loan from the concerned Department, which runs into hundreds of crores of rupees. The petitioner was arrested in the instant FIR and was released on regular bail vide order dated 11.1.2022 (Annexure P-2). After getting the relief of regular bail, the petitioner has filed application for releasing his passport and OCI card on the following ground:-

“a. That the Applicant is the president and sole owner of the company "SLP Microsystems, Inc "(Annexure A-8) This company is into implementing Oracle applications and selling their own query tool”/ The Applicant's job is to

- a call the potential customers to sell his product;
- b. Implement the software;
- c Gather customer requirements (Site visits);
- d Send payments to vendors.
- e. Raise invoices to customers on weekly basis;
- f. File laxes (property, income tax etc);

b. That the applicant has a wife and two kids (one daughter and son) residing in USA The age of the Applicant's daughter is 22 years and son is 17 years. Both the Children are studying in the USA itself and they also need presence of the Applicant for their proper development in all facets of life viz. emotionally, psychology, financially, professionally and education wise as well, besides other needs as detailed herein, the Applicant family firmly needs help in dropping the son to the university and guide him through his Pre-Medicine course like Scribing, volunteering etc.”

4. The application was considered by the learned trial Court concerned, however, the same was dismissed vide impugned order dated 17.06.2022 (Annexure P-4), and while dismissing the said application, the learned trial Court concerned has observed that the instant application is maintained on frivolous and flimsy grounds, as the petitioner has neither placed on record any document to substantiate that his presence is

required to file income tax in America. Further-more, there is no document on record to prove that there is any tax liability and in case even if the liability is there, it can be deposited through online mode.

5. The second ground of the petitioner that he is required to drop his son to his University was also found to be a lame excuse to run out of the hands of Indian law, as on judicial file, there is driving licences of his son, daughter and wife and thereupon, the learned trial Court concerned has observed that the petitioner has grown up children and the presence of the father for dropping his son at University is not required.

6. So far as the running of his business is concerned, the learned trial Court concerned was of the view that the petitioner can run his business and contact his workers through virtual platform and, therefore, proceeded to dismiss his application.

7. The appeal preferred by the petitioner against the order (supra) passed by the learned trial Court concerned also met with the same fate and vide order dated 25.7.2022, the appeal was also dismissed. The above two referred orders caused grievance to the petitioner and propelled him to file the instant petition by invoking the extraordinary jurisdiction of this Court as envisaged under Section 482 Cr.P.C.

8. In asking for the relief of permission to go abroad, the learned counsel for the petitioner submits that it is a fundamental right of the petitioner, once he is on regular bail, he cannot be subjected to a limited freedom especially when the amount, which is alleged to have been cheated, the recovery agencies are in the process of recovering the same by selling the assets belonging to the accused person. He further

submits that there is no apprehension that the petitioner would not join the proceedings in the trial.

9. On the other hand, the learned State counsel has opposed the application and submits that infact there are four accused and out of four accused, three accused have already absconded and at present residing abroad, which led the investigating agency to get them declared as a proclaimed offender and there is every likelihood that the petitioner shall also run away from the clutches of law and it is every possibility that he cannot return to India once he was allowed to go abroad. He further submits that it would be difficult for the prosecution to bring him back in case he would allow to go abroad.

10. This Court has examined the submissions made by the learned counsel for the parties concerned and finds that there is no perversity or illegality in the order passed by the learned Courts below especially when the petitioner cannot assure this Court about his re-joining the trial once the permission is granted to him to go abroad. The petitioner is a OCI card holder and all other co-accused have already absconded and rather have been declared as a proclaimed offender. From the record, it transpired that the petitioner is also in the process of running away from the clutches of law, as he was arrested on look out notice issued against him, when he landed in India. Thus, the antecedents of the petitioner reflect that the instant application has been filed only to run away from the clutches of law and it would be difficult to secure his presence in case he opted not to return India.

11. In totality of the aforesaid circumstances, the present

petitioner does not deserve the asked for relief. Consequently, the instant petition is **dismissed**, however, a direction is passed upon the learned trial Court concerned to make all efforts to decide the ongoing trial in the FIR in question expeditiously.

12. All pending application(s), if any, also stands disposed of.

April 03, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No