

116+272 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHCRM-679-2024 in/and
CRM-M-65034-2023
Date of Decision: 20.01.2024

Arshdeep Kaur Dandiwal ...Petitioner

vs.

Balbir Singh and another ...Respondents

Coram : Hon'ble Mr. Justice N.S.ShekhawatPresent : Mr. Iqbaljeet S. Kingra, Advocate and
Mr. Sudhir Rana, Advocate
for the petitioner.Mr. Jaswinder Singh Grewal, Advocate
for respondent No.1.

Mr. Mohit Chaudhary, AAG, Punjab.

N.S.Shekhawat J. (Oral)**CRM-679-2024**

1. Application is allowed as prayed for subject to all just exceptions.

CRM-M-65034-20231. Reply by way of an affidavit of Deputy Superintendent of Police,
Fazilka has been filed on behalf of respondent No.2-State and the same is taken
on record.

2. Reply filed on behalf of respondent No.2 is also taken on record.

3. The petitioner has filed the present petition under Section 482
Cr.P.C. with a prayer to quash the order dated 11.12.2023 (Annexure P-8)
passed by the Court of Judicial Magistrate 1st Class, Abohar, District Fazilka,
whereby the application filed by the petitioner for grant of permanent
exemption from personal appearance was ordered to be dismissed.

4. Learned counsel for the petitioner/accused submits that the petitioner is permanent resident of Australia and is serving as a Nurse there. He further submits that she has been falsely involved in the present complaint case at the instance of Harvinder Singh, her ex-husband. Now, the petitioner has to join her duties in Australia. In case, she is not permitted to go abroad, she will lose her job. To show her bonafides, learned counsel for the petitioner has offered to deposit a sum of Rs.9 lakhs in cash with the Court of Judicial Magistrate 1st Class, Abohar and has also undertaken to furnish a surety of Rs.9 lakhs subject to the satisfaction of the Judicial Magistrate 1st Class, Abohar. She will make the said deposit without prejudice to her right to raise any plea of defence before the trial Court and such deposit shall be subject to the outcome of the trial before the trial Court.

5. Learned State counsel as well as learned counsel for the complainant have vehemently opposed the prayer made by learned counsel for the petitioner in the present case. Learned counsel further submitted that the petitioner was earlier declared to be proclaimed person and may again abscond from the process of law.

6. I have heard learned counsel for the parties and perused the record.

7. It is the admitted fact that the petitioner is a resident of Australia and is employed as Nurse there. Consequently, in case, the permanent exemption is not granted, the petitioner is likely to lose her job abroad. Consequently, the prayer made by the petitioner is allowed and the petitioner is granted permanent exemption from appearance before the trial Court. She is directed to deposit a sum of Rs.9 Lakhs with the trial Court/Duty Magistrate within a period of one week from today and the trial Court/Duty Magistrate

shall deposit the said amount of Rs.9 lakhs in a fixed deposit in some nationalized bank, fetching maximum rate of interest, subject to the outcome of trial. The petitioner shall also file a surety in the sum of Rs.9 lakhs, to the satisfaction of the trial Court/Duty Magistrate. Still further, the petitioner shall also file an affidavit before the concerned Court that the evidence in the present case may be recorded in her absence and she will be available to the trial Court to appear through Video Conferencing, as per High Court Rules and Orders. She will also file an affidavit before the trial Court that whenever, her presence is required by the trial Court, she would also personally appear before the trial Court as per the directions of the trial Court. She will also make an averment in her affidavit that she would have no objection, in case the proceedings before the trial Court are conducted in the presence of her counsel and she would not raise any objection at any stage of trial/appeal in this regard. In case, the compliance is not made by the petitioner, within a period of one week from today, the present petition shall be deemed to be dismissed. The concerned Court shall also be at liberty to impose such conditions, as it may deem appropriate in the peculiar facts and circumstances of the present case.

- 9. The present petition is allowed in the above terms.
- 10. Pending application, if any, is also disposed of.

20.01.2024
hemlata

(N.S.SHEKHAWAT)
JUDGE

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