

2025:PHHC:047252



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM M-6583 of 2025

Date of Decision: 05.04.2025

Harcharan Singh

...Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Jasraj Singh, Advocate, for the petitioner.

Mr. Deepinder Singh Brar, Sr. DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita with a prayer to grant permission to the petitioner to travel abroad for a period of one month to Canada to meet his family members including the grand-children and in order to join the “*Dastar Bandi*” ceremony of his grand-son, Naunidh Singh, aged 14 years.

2. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case, i.e., FIR No. 170 dated 04.08.2024 under Sections 406, 420 and 120-B of IPC registered at Police Station City Phagwara, District Kapurthala

(Annexure P-6). In fact, apart from the present case, the petitioner was also involved in two more FIR's, i.e., FIR No. 107 dated 17.09.2023 under Sections 307, 148 and 149 of IPC and Sections 25 and 27 of the Arms Act (Section 120-B IPC added later on) registered at Police Station Nakodar Sadar, District Jalandhar (Rural) and FIR No. 147 dated 02.06.2023 under Sections 120-B and 420 IPC (Sections 465, 468 and 471 of IPC added later on) registered at Police Station Model Town, District Hoshiarpur. He further contends that the petitioner approached this Court for grant of anticipatory bail in the present case vide CRM M-1966-2024 and vide order dated 16.04.2024 (Annexure P-2, Colly.), the petitioner was granted the concession of anticipatory bail by this court.

3. Learned counsel for the petitioner further contends that the petitioner is resident of Guru Gobind Singh Nagar, Hoshiarpur and his younger son Gurpreet Singh is residing in New Delhi. All the FIR's were registered with the sole ulterior motive to pressurize the petitioner and his son Gurpreet Singh and the raids were conducted on their houses with *malafide* intention. Learned counsel further submits that the petitioner is a 70 years old person and has been victimized on account of on going dispute between his son Gurpreet Singh and Harnek Singh, complainant, who managed to get three false cases registered against the petitioner and his son, one after another. The petitioner is permanent resident of District Hoshiarpur and has deep roots in the society. He intends to travel to Canada in order to join his

elder son and his family including his grand son, namely, Naunidh Singh, aged 14 years and Simran Kaur, aged 19 years. Naunidh Singh, grand son of the petitioner had turned 14 years old on 18.12.2024 and the petitioner intends to join his “*Dastar Bandi*” ceremony, which is a ceremony among Sikhs, where a young boy ties a turban for the first time. In fact, the said ceremony is very sacred and significant event, wherein, the elderly in the family tied turban usually at a Gurudawara, with the boy sitting in front of Guru Granth Sahib. He further contends that the petitioner may be granted permission to travel Canada to meet his family members including the grand children and to join the “*Daster Bandi*” ceremony of his grand son.

4. On the other hand, learned State counsel vehemently argued that the petitioner is involved in three FIRs and his family members are residing abroad. He is an old man and may not return to India. Thus, the permission to travel abroad may be declined and the petition may be ordered to be dismissed.

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

6. Before proceeding any further, it would be appropriate to refer to the judgment passed by the Hon’ble Supreme Court in the matter of ***Menka Gandhi Vs. Union of India 1978 (1) SCC 248***, whereby, the Hon’ble Supreme Court of India has held that no person can be deprived of his right to go abroad, unless there is a law

enabling the State to do so and such law contains fair, reasonable and just procedure. The relevant extract of the judgment is reproduced below:-

Thus, no person can be deprived of his right to, go abroad unless there is a law made by the State prescribing the procedure for so depriving him and the deprivation is effected strictly in accordance with such procedure. It was for this reason, in order to comply with the requirement of Article 21, that Parliament enacted the Passport Act, 1967 for regulating the right to go abroad. It is clear from the provisions of the Passports, Act, 1967 that it lays down the circumstances under which a passport may be issued or refused or cancelled or impounded and also prescribes a procedure for doing so, but the question is whether that is sufficient compliance with Article 21. Is the prescription of some sort of procedure enough or must the procedure comply with any particular requirements? Obviously, procedure cannot be arbitrary, unfair or unreasonable. This indeed was conceded by the learned Attorney General who with his usual candour frankly stated that it was not possible for him to contend that any procedure howsoever arbitrary, oppressive or unjust may be prescribed by the law.

Thus, it is apparent that such a right to travel abroad cannot be deprived except by the just, fair and reasonable procedure prescribed by the State by a law.

7. Still further, this Court has held in the matter of ***Utkarshh Pahwa Vs. Assistant Director (PMLA), Directorate of Enforcement, CRM M-20123 of 2022*** decided on 13.05.2022 that it can be safely concluded that in normal circumstances, permission could be granted to the petitioner to travel abroad, the same being a fundamental right and the could be regulated by imposing conditions. The relevant extract of the judgment is reproduced below:-

*"5 The law governing the question of grant of permission to the petitioner for travelling abroad during the pendency of the trial has been elaborately discussed by this Court in authority of **Paramjit Kaur v. State of Punjab's case (supra)** in which reliance was placed on **Srichand P. Hinduja v. State through CBI, New Delhi 2002 (3) RCR (Criminal) 186 (SC)**, **Arun Kapoor v. State of Haryana 2004 (4) RCR (Criminal) 594 (P&H)**, **Brij Bhushan Singal v. Central Bureau of Investigation 1994 (3) RCR (Crl.) 498 (P&H)**, **Anjal Kumar @ Angel Kumar v. State of Punjab 2010 (1) RCR (Criminal) 201** and **Naginder Singh Rana v. State of Punjab 2004 (3) RCR (Criminal) 912** and on the basis of the said authoritative pronouncements of the Hon'ble Apex Court and this Court, it can be safely concluded that in normal circumstances, permission can be granted to the petitioner to travel abroad being his fundamental right to travel abroad, but the conditions are to be imposed for regulating and securing his presence during the trial.*

6. Keeping in view the said ratio of the aforesaid authority of **Paramjit Kaur v. State of Punjab's case (supra)**, which is applicable to the facts of the present

case, in which also the permission has been sought by the petitioner to travel abroad for a short duration for attending the marriage ceremony of his childhood friends and the supporting documents have also been placed on record, I grant permission to petitioner Utkarsh Pahwa to travel abroad for attending the marriage ceremony of his childhood friends Jay at Bangkok during the period from 25.1.2019 to 28.1.2019 and marriage ceremony of Medha Alhuwalia at Turkey from 08.2.2019 to 09.2.2019 subject to following conditions:-

(i) that the petitioner shall not seek extension of the period of his stay abroad at any ground whatsoever except in case of medical emergency and shall return to India from 1st trip by 29.1.2019 and by 10.2.2019 from the second trip.

(ii) that the petitioner shall not visit any other country except Thailand and Turkey.

(iii) that the petitioner shall not in any manner tamper with the evidence of the prosecution;

(iv) that the petitioner shall submit copy of his passport before visit and on return, within one week shall produce his passport in the court for placing on record its copy in respect of his said visit record;

(v) that the petitioner shall execute FDR/bank guarantee to the tune of Rs. 40 Lacs. This amount shall be returned to the petitioner when he will come back from his trips

7. Resultantly, petition is allowed in the above terms and the impugned order dated 2.1.2019 is set aside. 8. Since the main case has been decided, the pending CM, if any, also stands disposed of."

8. Even the Hon'ble Supreme Court of India in judgment titled **Satish Chandra Verma v. Union of India and others, reported as 2019 (2) SCT 741**, has also held that the right to travel abroad is an important basic human right and the said right also extends to private life- marriage, family and friendship. Relevant portion of the said judgment is reproduced herein-below: -

"5. The right to travel abroad is an important basic human right for it nourishes independent and self-determining creative character of the individual, not only by extending his freedoms of action, but also by extending the scope of his experience. The right also extends to private life; marriage, family and friendship are humanities which can be rarely affected through refusal of freedom to go abroad and clearly show that this freedom is a genuine human right. (See Mrs. Maneka Gandhi v. Union of India and Another (1978) 1 SCC 248). In the said judgment, there is a reference to the words of Justice Douglas in Kent v. Dulles, (1958) 357 US 116 which are as follows: "Freedom to go abroad has much social value and represents the basic human right of great significance."

9. In the present case, the present petitioner is an old person and wants to attend the “Daster Bandi” ceremony of his grand son. Though, his son is settled in Canada, but the remaining members of the family are settled in Hoshiarpur/New Delhi only and he has deep roots in the society in Punjab. Thus, keeping in view the aforesaid discussion as well as the law laid down by the Hon’ble Supreme

Court, the present petition is allowed and the petitioner is permitted to go to Canada for a period of one month, i.e., w.e.f. 01.05.2025 to 30.05.2025 subject to the following conditions:-

(i) *The petitioner shall file an undertaking before the trial Court/Area Magistrate/Duty Magistrate that he shall visit Canada only and shall not travel to any other country or any other place in the world.*

(ii) *Even, he shall positively return to India on 30.05.2025 and shall not apply for extension of his stay abroad, on any ground whatsoever.*

(iii) *The present petitioner shall deposit his passport within a period of one week of his return from Canada, with the concerned Court.*

(iv) *The petitioner shall deposit a fixed deposit receipt (FDR) of Rs.10,00,000/- in the name of the complainant with the trial Court/Area Magistrate/Duty Magistrate and the same shall be kept on file. In the eventuality of failure of the petitioner to return to India, as per the above directions, the same shall be handed over to the complainant and the complainant would be at liberty to encash the same.*

The concerned Court may impose any other conditions, which it may deem fit and appropriate in the facts and circumstances of the present case.

05.04.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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