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

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**CRM-M-12845-2025 (O&M)**  
**Date of decision: 08.05.2025**

**Sunil Kumar @ Rocky****...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Navmohit Singh, Advocate  
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

**MANISHA BATRA, J. (Oral)**

1. The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of order dated 11.11.2024 (Annexure P-2), passed by the Court of learned Sessions Judge, Kaithal in case bearing SC No. 208 of 2022, titled as State vs. Deepak @ Deepi and others, arising out of FIR No. 110 dated 25.07.2020, registered under Sections 370, 406, 420 and 506 of IPC and Section 24 of the Emigration Act at Police Station Titram, Kaithal, whereby an application filed by the petitioner, seeking permission to go abroad, had been dismissed.

2. The petitioner has been booked in the aforesaid FIR and is facing trial therein. His passport has been deposited with the learned trial Court. The petitioner claims to be running an establishment in the name of Chanakya Study Abroad, which is a registered firm. His firm assists students to get

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admission in foreign institutions and also to get visa and complete other formalities in that regard. He had moved an application before the learned trial Court for releasing his passport and grant him due permission to visit European countries but the same had been dismissed by passing the impugned.

3. Learned counsel for the petitioner has argued that the impugned order is not sustainable in the eyes of law as while passing the same, learned trial Court ignored the fact that he was running a business of immigration and it was necessary for him to go abroad with regard to his business as it has a direct impact on the academic future of several students. Learned trial Court also ignored the fact that the petitioner had previously been granted permission to visit Dubai, Taiwan and South Korea, vide orders dated 21.09.2023 and 22.03.2024 (Annexures P-3 and P-4) and he had never misused the said concession and after returning to India, he had deposited this passport with the learned trial Court. The aforesaid application of the petitioner had been dismissed by the learned trial Court only on the ground that he had not mentioned any specific date and also that he had mentioned in the head note and paragraph No. 6 of the application that he wanted to visit Dubai but in the later part of the application, he had mentioned that he wanted to visit Europe. It is argued that the said error was a *bona fide* typographical error as in paragraph Nos. 9 and 10, it was clearly mentioned that the petitioner intended to visit Europe. It is, therefore, argued that the impugned order is liable to be set aside, the petitioner deserves to be granted permission to visit some Universities in Belgium, as mentioned in paragraph No. 2 of the

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petition, for a period of six weeks and also deserves to seek release of his passport. In support of his arguments, learned counsel for the petitioner has placed reliance upon the authorities cited as '*Gaurav Raheja Vs. State of Punjab, 2022 SCC Online P&H 2010*', '*Sarthak Tandon Vs. State of Punjab, 2022 SCC Online P&H 2406*', '*Tarun Trikha Vs. State of West Bengal, 2015 SCC Online SC 1879*', '*Parvez Noordin Lokhandwalla Vs. State of Maharashtra and another, (2020) 10 SCC 77*'.

4. Reply has been filed by the respondent-State. Learned Assistant Advocate General, Haryana, in terms of reply, has opposed the prayer of the petitioner by submitting that there are chances of the petitioner's absconding and delaying the trial. Therefore, at this stage, the petitioner cannot be allowed to travel abroad as there is possibility that he would not return to India to face the trial.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record carefully.

6. Before delving on the pleas and contentions as raised by both the sides, I consider it proper to discuss the position of law qua the right of a person to travel abroad. Reference can be made in this context to '*Barun Chandra Thakur Vs. Rian Augustine Pintu, 2019 SCC, Online SC 1899*' wherein the Hon'ble Supreme Court had observed that there can be no gain saying that the right to travel abroad is valuable one. The right to travel abroad is a valuable one and an integral part of right to personal liberty. Equally, the pre-condition of securing prior permission before travelling abroad is a crucial

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ingredient in case some proceedings are going on can certainly be imposed. At best the condition for seeking the permission before travelling abroad can be regulated but not deleted altogether.

7. It is also well settled proposition of law that under Article 21 of Constitution of India, a person cannot be deprived of the right to go abroad which is also included in the expression 'personal liberty' by law. Reference in this regard can also be made to the observations made by a Co-ordinate Bench of this Court in '**Jaspal Kaur Bhinder Vs. State of Punjab**' in CRM-M-40170-2020 decided on 23.04.2021,' wherein it was held that an accused had a right to travel though conditions can be imposed upon him to ensure his presence before the trial Court and in case any condition imposed by the Court is violated, appropriate coercive action can be taken. Similar observations have been made in **Gaurav Raheja's case (supra)**, **Sarthak Tandon's case (supra)**, **Tarun Trikha's case (supra)** and **Parvez Noordin Lokhandwalla's case (supra)**.

8. Taking above discussed position of law into consideration and applying the same to the peculiar facts and circumstances of the present case, it is to be seen as to whether permission should be granted to the petitioner to go to Belgium for the period that has been asked for by him. The petitioner is running an immigration business and assists Indian students to pursue their studies in foreign institutions, for which, he needs to travel abroad. Undoubtedly, he is facing trial in case arising out of the aforesaid FIR but it is admitted position that previously, he had been granted permission by the learned trial Court to visit Dubai, Taiwan and South Korea and he had never

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misused the said concession. So far as the aforesaid discrepancies in his application are concerned, the same may be typographical error, which alone cannot form basis to deny him such a valuable right. On considering the overall facts, this Court is of the opinion that the right of the petitioner to visit Belgium in connection with his business cannot be ordered to be curtailed but of course a balance is required to be drawn. In view of the totality of the afore-discussed facts and the law laid down in this regard, the present petition is allowed. The impugned order is set aside. The learned trial Court is directed to release the passport of the petitioner to him. The petitioner is granted permission to visit Belgium for a period of six weeks, which will start from the date of his outbound journey from India. However, this permission is given, subject to the compliance of following conditions:-

- (i) he will return to India immediately after completion of the period of six weeks from the date of his outbound journey from India.
- (ii) he will join the Court proceedings, if required, through video conferencing during his stay abroad;
- (iii) he will be represented by a counsel before the learned trial Court;
- (iv) he will not delay/stall the proceedings of the learned trial Court;
- (v) the learned trial Court will record the evidence and learned counsel for the petitioner will cross-examine the witnesses without raising any objection that the petitioner is not present and such evidence will be termed as legal evidence and he will not dispute the question of his identity.

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- (vi) In case, learned counsel for the petitioner fails to cooperate with the proceedings in the trial Court, it will be open for the trial Court to recommend for recalling of the present order.
- (vii) Immediately prior to departure, the petitioner shall intimate in writing to the concerned Police Station detailing the itinerary of his visit to abroad, including flight number and address where he would reside in Belgium as well as the contact number on which, he could be contacted there;
- (viii) he shall deposit a bank guarantee to the tune of Rs. 5,00,000/- before the trial Court.
- (ix) he will deposit his passport with the trial Court after returning to India;
- (x) Any other condition, which the trial Court may imposed.

08.05.2025

*Waseem Ansari*

(MANISHA BATRA)  
JUDGE

*Whether speaking/reasoned*

*Yes*

*Whether reportable*

*Yes*