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

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CRM-M-27975-2025 (O&M)
Date of decision: 01.08.2025

Samandeep Kaur ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Charanpal Singh Bagri, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. CRM-28972-2025

Prayer in this application is for preponing the date of the main case, which is fixed for 19.08.2025.

For the reasons stated in the application, the same is allowed. The main case is preponed and taken up today itself.

2. CRM-M-27975-2025(O&M)

The instant petition has been filed by the petitioner under Section 482 of Cr.P.C. (*which is parimateria with Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023*) seeking quashing of order dated 09.05.2025, passed by the learned trial Court in case arising out of FIR No. 407 dated 26.09.2020, under Sections 306, 201 and 34 of IPC at Police Station City Barnala, District Barnala, whereby an application moved by the petitioner for releasing her passport and to allow her to travel Canada has been rejected.

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3. Learned counsel for the petitioner has submitted that the petitioner has been arraigned as an accused in the aforesaid case and is facing trial therein. The petitioner is having permanent residency status of Canada and has been issued a PR Card, which in fact has expired. The said card is required to be renewed, otherwise she will lose her status of permanent residency of Canada. As per the Immigration, Refugees and Citizenship Canada (IRCC) Rules, the PR Card cannot be renewed while in India and for the said purpose, the petitioner needs to travel to Canada. Since the PR Card of the petitioner has expired, she has to apply first for Permanent Resident Travel Document (PRTD)/Visa to visit Canada for renewal of PR Card, for which, original passport is required and the said process may take a period of 7-8 weeks. Previously, she had been granted permission to go abroad, vide order dated 09.12.2022, passed in **CRM-M-57172-2022**, and she had complied with the said order in letter and spirit. It is, therefore, argued that the impugned order is liable to be set aside, the petitioner deserves to be granted permission to visit Canada by releasing her 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’***.

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4. Reply has been filed by the respondent-State. It is submitted therein and learned State counsel has opposed the prayer of the petitioner on the ground that the petitioner may abscond.

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 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 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

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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 the prayer made by the petitioner deserves be acceptance or not? The petitioner is having permanent residency status of Canada. She was having a PR Card, which has expired as she could not get it renewed due to her not being in Canada. It is an admitted position that previously, she had been granted permission by this Court to travel abroad and she had not misused the said concession. Hence, on considering the overall facts, this Court is of the opinion that the right of the petitioner to visit Canada for the said purpose 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 her for a period of six months. Since as per the petitioner, the process of applying and issuance of PRTD/Visa shall take at least a period of two months, she is granted permission to visit Canada for a period of four months after issuance of PRTD, which will start from the date of her outbound

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journey from India. However, this permission is given, subject to the compliance of following conditions:-

- (i) she will return to India immediately after completion of the period of four months from the date of her outbound journey from India.
- (ii) she will join the Court proceedings, if required, through video conferencing during her stay abroad;
- (iii) she will be represented by a counsel before the learned trial Court;
- (iv) she 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 she will not dispute the question of her identity.
- (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 her visit to abroad, including flight number and address where she would reside in Belgium as well as the contact number on which, she could be contacted there;
- (viii) she shall deposit a bank guarantee to the tune of Rs. 25,00,000/- (Rupees Twenty Five Lakhs) before the trial Court.

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- (ix) she will deposit her passport with the trial Court after returning to India;
- (x) Any other condition, which the trial Court may imposed.

01.08.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>