



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

CRM-M-36427-2025(O & M)

Date of decision: 11.07.2025

MANINDER SINGH

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. P.S. Ahluwalia, Advocate
 and Mr. Himmat Singh, Advocate
 for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been preferred under Section 528 of BNSS, 2023 for quashing of order dated 10.06.2025 (Annexure P-17) passed by learned Sub-Divisional Judicial Magistrate, Guhla in case bearing CHI/70/2025, whereby, the application filed by the petitioner, seeking permission to go abroad, has been rejected.

2. Learned counsel for the petitioner *inter alia* contends that the wife and son of the petitioner reside in Canada and do not have any means to support themselves. The family's only source of income is the business owned and operated by the petitioner, namely Kabeer Healthcare Services, a licensed Canadian firm that provides professional nursing services. Furthermore, the son of the petitioner is only 12 years old. He further contends that the petitioner undertakes to make a fixed deposit of an amount of Rs.9 lakh with the learned trial Court, which is equivalent to the amount qua which the FIR (*supra*) was registered. The wife and son of the petitioner are struggling without the petitioner and therefore, learned counsel seeks permission for the



petitioner to travel abroad for a period from 25.07.2025 to 20.01.2026 to meet them in Canada. Lastly, he submits that the right to travel abroad is a part of the fundamental right enshrined under Article 21 of the Constitution of India and that irreparable loss will be caused to the petitioner if the relief prayed for is denied. Reliance in this regard is placed on the judgment rendered by the Hon'ble Supreme Court in ***Mrs. Maneka Gandhi vs. Union of India and another(1978) 1 SCC 248.***

3. Notice of motion.

4. Ms. Geeta Sharma, DAG, Haryana puts in appearance and accepts notice on behalf of the respondent-State. She supports the impugned order and submits that there is a possibility of the petitioner evading the process of law, if he is allowed to travel abroad. However, she could not controvert the fact that the petitioner is not involved in any other case and that the right to travel abroad is a part of the fundamental right to life enshrined under Article 21 of the Constitution of India, as laid down in ***Mrs.Maneka Gandhi (supra).***

5. Having heard learned counsel for the parties and after perusing the record, it transpires that previously, the petitioner was a Manager at Sarva Haryana Gramin Bank, responsible for its day-to-day affairs. Allegedly, he failed to comply with banking instructions and observe the proper procedure for sanctioning and disbursement of a loan, resulting in his implication in the FIR (*supra*). However, nothing available on the record even remotely suggests that the petitioner would flee from the process of law and not join the proceedings if he is allowed to visit his family in Canada. In fact, the petitioner has already been granted the concession of bail by the learned



Additional Sessions Court, Kaithal vide order dated 03.03.2025 (Annexure P-14).

6. This Court is of the considered opinion that a delicate balance must be struck between the rights of the accused and those of the victim. While accountability and fairness are integral facets of justice, the idea of just justice can only be realised through compassion. However, the said purpose cannot be achieved if justice is dispensed only on the anvil of accountability in a mechanical manner, devoid of context and nuance. It must be remembered that justice and compassion are mutually inclusive.

7. A two Judge Bench of the Hon'ble Supreme Court in ***M. Viswanathan vs. M/s. S.K. Tiles & Potteries P. Ltd. and others 2010 (4) SCC (Cri) 298***, while discussing the scope of Section 482 of the Cr.P.C., has observed that the inherent powers of the High Court can be exercised to secure the ends of justice and rectify any wrongs that have crept in course of administration of justice. Speaking through Justice Dr. Arijit Pasayat, the following was held:

“14. Exercise of power under section 482 of the Code in a case of this nature is the exception and not the rule. The Section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of court, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart



from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognizes and preserves inherent powers of the High Courts. All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle "quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsae esse non potest" (when the law gives a person anything it gives him that without which it cannot exist). While exercising powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice”

8. In fact, a two Judge bench of the Hon’ble Supreme Court was confronted with a similar factual matrix in ***Parvez Noordin Lokhandwalla Vs. State of Maharashtra and another (2020) 10 SCC 77***, wherein speaking through Justice Dr. D.Y. Chandrachud, the following was observed:



“21. ...It would suffice to note that the co-accused was granted bail by the Sessions Judge Thane on 16 April 2018. We are called upon to decide only whether the appellant should be permitted to travel to the US for eight weeks. In evaluating this issue, we must have regard to the nature of the allegations, the conduct of the appellant and above all, the need to ensure that he does not pose a risk of evading the prosecution. The details which have been furnished to the Court by the appellant, indicate that he has regularly travelled between the US and India on as many as sixteen occasions between 2015 and 2020. He has maintained a close contact with India. The view of the High Court that he has no contact with India is contrary to the material on record. The lodging of an FIR should not in the facts of the present case be a bar on the travel of the appellant to the US for eight weeks to attend to the business of revalidating his Green Card. The conditions which a court imposes for the grant of bail - in this case temporary bail - have to balance the public interest in the enforcement of criminal justice with the rights of the accused. The human right to dignity and the protection of constitutional safeguards should not become illusory by the imposition of conditions which are disproportionate to the need to secure the presence of the accused, the proper course of investigation and eventually to ensure a fair trial. The conditions which are imposed by the court must bear a proportional relationship to the purpose of imposing the conditions. The nature of the risk which is posed by the grant of permission as sought in this case must be carefully evaluated in each case.

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24. Having regard to the genesis of the dispute as well as the issue as to whether the appellant is likely to flee from justice if he were to be permitted to travel to the US, we find, on the basis of the previous record of the appellant, that there is no reason or justification to deny him the permission which has been sought to



travel to the US for eight weeks. The appellant is an Indian citizen and holds an Indian passport. While it is true that an FIR has been lodged against the appellant, that, in our view, should not in itself prevent him from travelling to the US, where he is a resident since 1985, particularly when it has been drawn to the attention of the High Court and this Court that serious consequences would ensue in terms of the invalidation of the Green Card if the appellant were not permitted to travel. The record indicates the large amount of litigation between the family of the appellant and the complainant. Notwithstanding or perhaps because of this, the appellant has frequently travelled between the US and India even after the filing of the complaint and the FIR. We accordingly are of the view that the application for modification was incorrectly rejected by the High Court and the appellant ought to have been allowed to travel to the US for a period of eight weeks..."

9. Further still, the Hon'ble Supreme Court of India gave constitutional status to the right to travel abroad in the landmark judgment of ***Mrs. Maneka Gandhi (supra)*** noting that travelling is one of the most fundamental manifestations of liberty. This principle was reiterated by a two Judge bench of the Hon'ble Supreme Court in ***Satish Chandra Verma Vs. Union of India and others 2019 (2) SCT 741***, highlighting the right to travel abroad as an important human right. The following was observed:

"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 judgement, 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."

10. Adverting to the matter at hand, the petitioner is an Indian citizen, holding an Indian passport. As such, in view of the discussion above, this Court is of the considered opinion that the petitioner is not likely to flee from justice. Moreover, denying him the right to travel abroad would have a truly detrimental effect on his family and his business.

11. Accordingly, in the interest of justice, the present petition is allowed, subject to the following conditions:

- i. The petitioner shall appear before the concerned trial Court within a period of six months from the date of his departure to Canada and that he would not seek any extension regarding this;
- ii. The petitioner is directed to deposit Rs.9 lakh before the concerned trial Court in the shape of FDR to ensure his return and secure his appearance. In case the petitioner fails to appear before the concerned trial Court within the stipulated period, the aforementioned amount shall be forfeited.
- iii. Meanwhile, the petitioner shall be represented through his counsel;
- iv. The petitioner shall not delay/stall the trial proceedings;
- v. The petitioner shall not dispute his identity as accused;



- vi. The petitioner shall have no objection if the prosecution evidence is recorded in his absence but in the presence of his counsel;
- vii. The petitioner shall appear before the concerned trial Court as and when required; and
- viii. Any other condition, which the trial Court may deem appropriate to impose.

12. However, nothing observed hereinabove shall be construed as an expression of opinion of this Court on merits of the case. The learned trial Court is directed to proceed with the trial strictly in accordance with law, without being prejudiced by the same.

13. Pending miscellaneous application(s), if any, also stand(s) disposed of.

July 11, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |