

## Kuldeep Kaur Vs State of Punjab and Another

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** Nov. 2, 2010

**Acts Referred:** Penal Code, 1860 (IPC) " Section 120B, 420

Prevention of Corruption Act, 1988 " Section 5(1), 5(2)

Punjab Regulation of Colonies Act, 1975 " Section 11, 3, 8

**Hon'ble Judges:** S.S. Saron, J

**Bench:** Single Bench

### Judgement

S.S. Saron, J.

Heard learned Counsel for the parties.

2. The Punjab State through Junior Engineer, Office of the Administrator, Urban Estate, Punjab, Jalandhar (Respondent No. 2) has filed the

complaint against the Petitioner and others alleging commission of offences u/s 11(i) read with Section 3(i) and Section 8(i) of Punjab Regulation of

Colonies Act, 1975 ("Act" - for short). It is alleged that the accused in the said case had sold plots in a colony which results in violation of the

provisions of the Act. The case is still pending. The present petition for grant of permission to go to Norway for the period from 7.11.2010 to

10.1.2011 during the pendency of the complaint has been filed.

3. The petition is opposed by the learned Counsel for the Respondents on the ground that earlier the Petitioner was exempted from appearance on

2.4.2002 and thereafter she did not appear and was declared a proclaimed offender on 2.9.2005.

4. After giving my thoughtful consideration to the matter, it may be noticed that the Petitioner was summoned as an accused vide order dated

21.12.1994. The learned trial Court in terms of order dated 4.6.1997 discharged all the accused in the case including the Petitioner. Against the

said order Respondent No. 2 filed a revision petition and the learned Sessions Judge, Kapurthala vide order dated 30.1.2002 set aside the order

of discharge and remanded the case for fresh decision.

5. The Petitioner was holding a general power of attorney on behalf of her husband Nirpal Singh, who was a co-accused along with the Petitioner.

According to the learned Counsel for the Petitioner after the discharge, the Petitioner had gone abroad with her husband. There a matrimonial

dispute arose between the Petitioner and her husband which resulted in an order of divorce being passed on 30.6.2005. The Petitioner though

exempted from appearance on 2.4.2002, however, she could not appear, as according to her, her husband did not inform her about the

proceedings as their relations were strained. Therefore, she was declared a proclaimed offender on 2.9.2004. It may, however, be noticed that

during the trial of the case, the other accused were acquitted by the learned Chief Judicial Magistrate, Kapurthala vide order dated 17.4.2007. The

Petitioner filed Criminal Misc. No. 18944 of 2010 for the grant of pre-arrest bail. In the said petition, this Court vide order dated 27.7.2010

issued notice of motion and meanwhile directed the Petitioner to appear in the Court of Chief Judicial Magistrate, Kapurthala. In the event of her

arrest, it was ordered that she would be admitted to bail. The Petitioner has appeared in the Court of learned Chief Judicial Magistrate, Kapurthala

and was granted bail. Accordingly, the order dated 27.7.2010 granting interim bail was made absolute.

6. The Petitioner now has to go abroad as the entire family of the Petitioner which comprises of her daughter and two sons are residing in Norway.

The son of the Petitioner, namely, Amrinder Paul Singh and his wife Amanjot Kaur had a daughter on 13.8.2010. However, the family is unable to

celebrate the birth of the daughter as the Petitioner is in India. Therefore, it is prayed that she be given permission to go abroad for a limited

duration from 7.11.2010 to 10.1.2011.

7. The Supreme Court in Srichand P. Hinduja v. State through C.B.I., New Delhi 2002 (2) RCR 186, granted permission to go abroad

to the accused in the said case. The case related to offences punishable under Sections 120B and 420 IPC; besides u/s 5(2) read with Section

5(1)(d) of the Prevention of Corruption Act. A plea was raised in the said case that if the applicants therein were permitted to go abroad, it would

affect the smooth progress of the trial and there are reasonable grounds to believe that they would not return back to India to face the trial. The

Supreme Court noticed that the applicants therein were Indian Nationals at the time of registration of the FIR and thereafter they had acquired

British and Swiss Nationalities. After considering the facts and circumstances of the said case the applicants therein were permitted to go abroad

as an interim measure subject to their furnishing adequate sureties.

8. The prosecution that the Petitioner is facing in the present case relates to offences under the Act inter alia alleging that the Petitioner along with

other co-accused had sold plots to make a colony which is impermissible in law. However, the other co-accused, as already noticed, had been

acquitted by the learned Chief Judicial Magistrate, Kapurthala. Besides, the Petitioner seeks permission to go abroad for a limited duration.

Therefore, in the facts and circumstances, it would be just and expedient that the Petitioner is permitted to go abroad. The apprehension of the

learned Counsel for the Respondents that the Petitioner would not return can be safeguarded by imposing certain conditions.

9. Accordingly, the Petitioner is permitted to go abroad for the period from 7.11.2010 to 10.1.2011 subject to the following conditions:

(i) The Petitioner shall execute a personal bond and surety in the sum of Rs. 5 Lacs to the satisfaction of the trial Magistrate undertaking to appear

in Court soon after 10.1.2011.

(ii) The Petitioner shall bind herself that she shall return from abroad and appear before the trial Magistrate for the purpose of trial.

(iii) The Petitioner shall furnish one surety in the sum of Rs. 5 Lacs to the satisfaction of learned trial Magistrate for her return from abroad and

appearance before the Court.

(iv) On return of the Petitioner from abroad, the conditions imposed for going abroad shall become inoperative and the Petitioner shall continue to

be bound by the old bonds and sureties that have already been furnished. During the period the Petitioner is abroad, her personal appearance

before the learned trial Magistrate shall be exempted and she shall be permitted to appear through her Counsel.

(v) For the purpose of going abroad after the necessary surety and bonds are furnished the learned trial Magistrate shall release her passport which

was deposited by her.

10. The criminal miscellaneous petition shall stand disposed of.

11. Copy of this order be given dasti on payment of fee prescribed for urgent applications.