

**(2010) 11 P&H CK 0574**

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

**Case No:** CRM No. 56464 of 2010 in CRM No. M-23535 of 2010

Gurpremjit Singh

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

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

**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 120B, 406, 420, 498A
- Prevention of Corruption Act, 1988 - Section 5(1), 5(2)

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

**Bench:** Single Bench

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**Judgement**

S.S. Saron, J.

The Petitioner has filed CRM No. M-23535 of 2010 seeking quashing of FIR No. 114 dated 11.3.2010, Police station Civil Lines, Amritsar City, under Sections 406 and 498A IPC which has been lodged by the complainant Harleen Narang (Respondent No. 2). The marriage of the younger brother of the Petitioner namely Paramdeep Singh was solemnised with the complainant Harleen Narang (Respondent No. 2) on 15.10.2006 at Amritsar. The younger brother of the Petitioner namely Paramdeep Singh was residing with his father at House No. 3301, Sector 32 D, Chandigarh. The Petitioner, it is submitted, was residing at a separate house i.e. House No. 707, PSB Complex, Sector 49, Chandigarh. In January 2010 the Petitioner got his immigration for Canada and he went abroad alongwith his family. The younger brother of the Petitioner namely Paramdeep Singh is in Australia since July 2008. Thereafter, the immigration for complainant (Respondent No. 2) Harleen Narang was received for Australia on 6.3.2010. Harleen Narang (Respondent No. 2), however, instead of joining her husband, lodged the FIR on 11.3.2010. The Petitioner had come from Canada and was arrested on 12.3.2010. According to the Petitioner he has nothing to do with the matrimonial dispute between his younger brother Paramdeep Singh and his wife Harleen Narang (Respondent No. 2). The family of the Petitioner is already in Canada. The Petitioner, by way of Criminal Miscellaneous Application No.

56464 of 2010, has made a prayer for grant of exemption from personal appearance before the learned trial Court on each date of hearing fixed before it and has also sought grant of permission to visit Canada. It is submitted that the Petitioner had come back to India in Feb.2010 to wind up his business but he was arrested in the above said case on 12.3.2010 and thereafter, released on regular bail vide order dated 18.3.2010 (Annexure P-10). The present petition has been filed for going abroad as his employer had earlier addressed a communication dated 9.7.2010 (Annexure P-12) wherein he was asked to join duties before 28.8.2010 in order to complete the project well in time. It is submitted that now another communication dated 24.10.2010 (Annexure P-15) has been received asking the Petitioner to join duties before 10.11.2010. Therefore, it is submitted that the Petitioner is to leave for abroad on 8.11.2010 and that he would return after January 2011 i.e. in the first week of February 2011.

2. Learned Counsel for the State and for the complainant have opposed the prayer. It is submitted that the Petitioner, in case, he goes abroad, is unlikely to return. Besides, it is submitted that the brother of the Petitioner namely Paramdeep Singh, who is the principal accused has been absconding and has not joined the investigation.

3. After giving my thoughtful consideration to the matter, it may be noticed that the Petitioner is to go to Canada for his appointment as Project Manager. His employer had initially asked him vide communication dated 9.7.2010 (Annexure P-12) to join his duties by 28.8.2010. However, the Petitioner was unable to go and the employer could not get a suitable candidate for the job and a communication dated 24.10.2010 (Annexure P-15) has been received in which it is stated that though the employer is searching for a suitable candidate for the job but so far they have not been able to identify a Project Manager matching the skills and experience of the Petitioner. Therefore, he has been asked to join the duties before 10.11.2010. It may also be noticed that the Petitioner on an earlier occasion i.e. On 18.6.2010 had gone to Canada after seeking necessary permission from the learned trial Court vide order dated 6.6.2010 (Annexure P-11) and thereafter, he has returned on 16.7.2010 and he deposited the passport thereafter. Therefore, it is unlikely that he would abscond. In *Srichand P. Hinduja v. State through CBI, New Delhi* 2002(2) RCR 186 (SC) the Supreme Court granted permission to the accused in the said case to go abroad. The case related to offences punishable under Sections 120B and 420 IPC as also u/s 5(2) read with Section 5(1)(d) of the Prevention of Corruption Act, 1988. In the said case also, a plea was raised that if the Appellants therein were permitted to go abroad, it would affect the smooth progress of the trial and there were reasonable grounds to believe that they would not return back to India to face the trial. It was noticed that the Appellants therein were Indian Nationals at the time of registration of the FIR and thereafter they had acquired British and Swiss Nationalities. The Supreme Court after considering the facts and circumstances of the case as an interim measure allowed the accused therein to go abroad subject to

their furnishing adequate sureties. The courts have generally granted permission to accused to go abroad on their complying with conditions. In the present case, the Petitioner is not the principal accused and in fact it is his younger brother who has a matrimonial dispute with his wife Harleen Narang (Respondent No. 2). The Petitioner cannot be forced to remain present in India when he has to join his duties with his employer in Canada. Besides, on an earlier occasion when he went abroad, he had returned. The apprehension of the Respondents that he is not likely to return, can be safeguarded by imposing certain conditions.

4. Accordingly, the Petitioner is permitted to go abroad till the end of January 2011, however, subject to the following conditions:

- i) The Petitioner shall execute a personal bond and surety in the sum of Rs. 5 lakhs to the satisfaction of the learned trial Magistrate undertaking to appear in the Court after January 2011 i.e. sometime in the first week of February 2011.
- ii) The Petitioner shall bind himself that he shall return from abroad and appear before the learned trial Court in the first week of February 2011;
- iii) The Petitioner shall furnish one surety in the sum of Rs. 5 lakhs to the satisfaction of the learned trial Magistrate for his 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, his personal appearance before the learned trial Magistrate shall remain dispensed with and he shall be permitted to appear through his Counsel
- v) for the purpose of going abroad, after necessary surety and bonds have been furnished, the learned trial Magistrate shall release the passport of the Petitioner, which has been deposited by him.

5. The Criminal Miscellaneous Petition is accordingly disposed of.

6. Copy of this order be given dasti on payment of fee prescribed for urgent application.