IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP No. 3873 of 2023
in
CrMP(M) No. 2820 of 2022

Order reserved on: December 26 2023

Date of Decision : December 29, 2023

Bhupinder Kumar Sharma ... Applicant/Petitioner

Versus

Central Bureau of Investigation ... Respondent.

Coram:

Hon'ble Ms. Justice Jyotsna Rewal Dua, Judge.

Whether approved for reporting?[1]

For the petitioner : Mr. Rajat Awasthi and Mr. Vaibhav Singh Chauhan, Advocates.

For the respondent : Mr. A.K. Bansal, Special Public Prosecutor (CBI).

Jyotsna Rewal Dua, Judge

The petitioner/applicant has prayed for release of his passport and permission to travel to Canada for business purposes.

2. Upon transfer of FIR No. 0133, dated 16.11.2018, registered at Police Station Shimla (East), Case No. RC0962019A0002 was registered on 7.5.2019 at C.B.I. Anti Corruption Bureau Branch, Shimla. The FIR was registered under

---

[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

High Court of H.P.

::: Downloaded on - 03/11/2026 09:47:10 :::CIS

Sections 409, 419, 465, 466 and 471 of the Indian Penal Code. Subsequently, Sections 120B IPC and 13(1)(c)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 were also added in the FIR.

2(ii) The FIR alleges complicity of the several individuals working in the State Education Department, Banks and Educational Institutions in misappropriating Post Matric Scholarships.

Petitioner/applicant is one of the co-accused persons in above FIR. As per the allegations levelled by the respondent, petitioner/applicant is Chairman of Dev Bhumi Educational Trust. He had allegedly grafted ₹1,94,07,520/- from Directorate of Higher Education, Himachal Pradesh, Shimla, under Post Matric Scholarship Scheme w.e.f. years 2013-2014 to 2016-2017. The amount was statedly meant for the poor students of SC/ST/OBC categories. The amount was released to the petitioner/applicant on account of his producing forged and fabricated documents of the students, who had never taken admission in his institute.

2(iii) Ad-interim anticipatory bail was granted to the petitioner/applicant on 26.12.2022 in Cr.MP(M) No. 2820 of 2022, subject to the terms and conditions mentioned therein, including his furnishing personal bond in the sum of ₹1,00,000/- (rupees one lakh only) with two local sureties each, in the like amount

High Court of H.P.

::: Downloaded on - 03/11/2026 09:47:10 :::CIS

to the satisfaction of the Arresting Officer. The bail petition moved by the petitioner/applicant under Section 438 Cr.PC was allowed on 13.01.2023 subject to following conditions:

> *"(i). Petitioner shall cooperate with the investigation, shall join the investigation and make himself available for interrogation as and when called by the investigating Agency in accordance with law.*
>
> *(ii). Petitioner shall surrender his passport to the Trial Court, if not surrendered already. He shall not leave India without prior permission of the Trial Court. Petitioner shall intimate the investigating agency about the place, where he shall reside during the investigations and the trial. Any change in his place of residence shall be immediately notified by him to the investigating agency.*
>
> *(iii) Petitioner shall furnish a cell number to the investigating officer on which he can be contacted at any time. He shall also ensure that the number remains active and switched on at all times. He shall submit details of his Aadhar Card and other proofs of identity with the investigating agency.*
>
> *(iv). Petitioner shall not tamper with the prosecution evidence or hamper the investigation in any manner whatsoever.*
>
> *(v). Petitioner shall not make any inducement, threat or promise directly or indirectly to the investigating officer, to the witnesses or to any other person acquainted with the facts of*

High Court of H.P.

::: Downloaded on - 03/11/2026 09:47:10 :::CIS

the case to dissuade him from disclosing such facts to the Courts or any Police Officer. Petitioner shall not maintain any direct or indirect contact with officials of bank/education department/private educational institutions concerned with the case. Petitioner shall not deal with any record relevant to the case. He shall not prejudice the proceedings in the matter.

(vi). Petitioner shall attend trial on each and every hearing unless exempted by the Court, in accordance with law.

Any breach, violation or non-compliance of the above conditions will be viewed seriously and will give right to the investigating agency to seek cancellation of bail. Any unwarranted conduct or action of the petitioner necessitating recall of bail be brought to the notice of the Court. In case of any genuine difficulty being faced due to any of the above conditions, it shall be open to the petitioner/respondent to move an application seeking modification thereof either before this Court or after cognizance of the matter before the learned Trial Court as the case may be. Learned Trial Court may impose any other condition considered appropriate as and when necessary."

2(iv). On 5.08.2023, petitioner/applicant moved learned Trial Court seeking release of his passport and for grant of permission to go to Canada. Learned Trial Court vide order dated 12.09.2023 dismissed the application on two counts: **(i)** *Challan*

High Court of HP.

::: Downloaded on - 03/11/2026 09:47:10 :::CIS

had not been filed in the Trial Court in the case, therefore, in view of the conditions imposed in the order dated 13.01.2023, the application for release of passport was not maintainable before the learned Trial Court at that stage; and **(ii)** Even on merits, learned Trial Court held that petitioner/applicant could not justify necessity of going to Canada.

It is in the aforesaid circumstances, petitioner/applicant has preferred this application for modification of order dated 13.01.2023 and for release of his passport for going to Canada.

3. Heard learned Counsel for the petitioner/applicant and learned Special Public Prosecutor for the respondent/CBI.

3(i) Petitioner/applicant seeks to travel to Canada for eight weeks. The reasons pleaded and canvassed by his learned Counsel are that: **(i)** Petitioner/applicant is President of a Business Corporation registered by the name of M.B. Share Corporation, that deals in wholesale bulk delivery of fuel in Canada. Petitioner's presence is required in Canada for his signatures on important bank documents; **(ii)** Petitioner has purchased property for extension of his business in Canada and for completing the long pending deal, his presence is now necessary in Canada.

3(ii) It has been submitted for the petitioner that he is the President and one of the Directors in entity 204 Fuels Inc.

High Court of H.P.

::: Downloaded on - 03/11/2026 09:47:10 :::CIS

registered at No. 7194375. Entity type is 'Business Corporation'. Entity sub-type is 'M.B. Share Corporation'. The other Directors of the entity are wife and two children of petitioner/applicant.

Placing reliance upon Annexure A-1, dated 7.9.2023, it has been submitted for the petitioner that 204 Fuels Inc. had entered into process for purchasing '690 Nairn Avenue'. For concluding the transaction, presence of all the Directors, including the petitioner is mandatory as signatures of all the Directors are necessary on the documents.. Attention was also invited to legal notice dated 3.12.2023 (Annexure R-1), appended by the petitioner alongwith the rejoinder to emphasize that on behalf of 204 Fuels Inc., advance deposit of $100,000/- (One Hundred Thousand) had already been paid to the vendors and in terms of Annexure R-1, at the request of petitioner/applicant, time to close the deal was extended till 12.12.2023 on payment of late closing fee of $15,000/- (Fifteen Thousand). The said communication statedly issued from the lawyers (legal notice) also records that in case the Directors of 204 Fuels Inc. do not remain present for signing the documents for purchase of the property, the deposit of $100,000/- (One Hundred Thousand) will be forfeited. Learned counsel for the petitioner/applicant also pressed into service e-mail of the petitioner dated 9.12.2023 (Annexure R-2), in

High Court of H.P.

::: Downloaded on - 03/11/2026 09:47:10 :::CIS

response to legal notice dated 3.12.2023, requesting therein some more time to close the deal. Learned Counsel for the petitioner/applicant submitted that the time for completing the transaction has now been extended till 12.1.2024.

3(iii). Petitioner/applicant has *inter-alia* pleaded in the instant application that he was ready to furnish bank guarantee to the satisfaction of the Court and would abide by any condition that may be imposed by the Court in case of allowing his prayer. During the hearing of the case, on 26.12.2023, learned counsel for the petitioner/applicant submitted that the petitioner was ready and willing to furnish bank guarantee of ₹1 Crore to show his bonafides in support of petitioner's prayer for release of his passport and for permission to travel to Canada for eight weeks.

3(iv). For the respondents, contention raised by learned Special Public Prosecutor is that petitioner/applicant is an influential person; He is facing allegations in the FIR of duping the Government worth crores of rupees; In case, petitioner/applicant is permitted to visit Canada, he might not return to India. It was also submitted that the property purported to be purchased by the petitioner can be purchased by the other Directors of the Business Corporation and petitioner's presence in Canada was not indispensable.

High Court of H.P.

::: Downloaded on - 03/11/2026 09:47:10 :::CIS

4. Consideration:-

4(i) Petitioner/applicant's passport was not ordered to be impounded. Petitioner/applicant has prayed for release of his passport, which he had surrendered in compliance to the directions of the order passed in Cr.MP(M) No. 2820 of 2022, granting him anticipatory bail. One of the conditions of bail order dated 13.01.2023 was that "*Petitioner shall surrender his passport to the Trial Court, if not surrendered already. He shall not leave India without prior permission of the Trial Court. Petitioner shall intimate the investigating agency about the place, where he shall reside during the investigations and the trial. Any change in his place of residence shall be immediately notified by him to the investigating agency*".

4(ii). Hon'ble Apex Court in ***Parvez Noordin Lokhandwalla vs. State of Maharashtra & another,*** **(2020) 10 SCC 77**, while considering an application for release of passport for travelling abroad held that 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

High Court of H.P.

::: Downloaded on - 03/11/2026 09:47:10 :::CIS

nature of risk which is posed by the grant of permission as sought in this case must be carefully evaluated in each case. The relevant part of the judgment reads as under vide paras 17 to 20:-

> "17. In *Sumit Mehta v. State (NCT of Delhi) [(2013)* 15 SCC 570], in the context of conditions under Section 438 (2) CrPC, this Court observed that a balance has to be struck between the rights of the accused and the enforcement of the criminal justice system while imposing conditions on the grant of bail:
>
> > "11. While exercising power Under Section 438 of the Code, the Court is duty bound to strike a balance between the individual's right to personal freedom and the right of investigation of the police. For the same, while granting relief under Section 438(1), appropriate conditions can be imposed Under Section 438(2) so as to ensure an uninterrupted investigation. The object of putting such conditions should be to avoid the possibility of the person hampering the investigation. Thus, any condition, which has no reference to the fairness or propriety of the investigation or trial, cannot be countenanced as permissible under the law. So, the discretion of the Court while imposing conditions must be exercised with utmost restraint."
>
> 18. This Court also discussed the scope of the discretion of the court to impose "any condition" on the grant of bail and observed:
>
> > "15. The words "any condition" used in the provision should not be regarded as conferring absolute power on a Court of law to impose any condition that it chooses to impose. Any condition has to be interpreted as a reasonable condition acceptable in the facts permissible in the

High Court of H.P.

::: Downloaded on - 03/11/2026 09:47:10 :::CIS

> circumstance and effective in the pragmatic sense and should not defeat the order of grant of bail."

19. In *Barun Chandra Thakur v. Ryan Augustine Pinto*, [2019 SCC OnLine SC 1899] this Court restored a condition mandating that the respondent seek prior permission from a competent court for travel abroad. The condition, which was originally imposed by the High Court while granting anticipatory bail was subsequently deleted by it. This Court made the following observations with respect to imposing restrictions on the accused's right to travel:

> "9. ....There could be no gainsaying to that the right to travel abroad is a valuable one and an integral part of the right to personal liberty. Equally, however, the pre-condition of securing prior permission before travelling abroad is a crucial ingredient which undoubtedly was engrafted as a condition for the grant of anticipatory-bail in this case. .....At best, the condition for seeking permission before travelling abroad could have been regulated, not deleted altogether."

20. This Court has passed multiple orders previously allowing an accused enlarged on bail to travel abroad. In *Ganpati Ramnath v State of Bihar,* [2017 SCC OnLine SC 1998] this Court allowed an accused-applicant to travel abroad for medical treatment, modifying its earlier bail order, noting that the applicant had travelled abroad on the ground of medical necessity on six occasions with the permission of the court and had returned. In *K. Mohammed v The State of Kerala* [2020 SCC OnLine SC 860], this Court allowed the accused-appellant to travel abroad to meet in the exigencies of a family situation.

High Court of H.P.

::: Downloaded on - 03/11/2026 09:47:10 :::CIS

> In *Tarun Trikha v State of West Bengal* [2015 SCC OnLine SC 1879], this Court allowed the accused-petitioner to travel to Indonesia in connection with his employment and to return once the work was completed. In *Pitam Pradhan v State of A. P.* [2014 SCC OnLine SC 1795], this Court while granting anticipatory bail, permitted the petitioner to travel abroad noting that his job required him to travel abroad at frequent intervals and may lose his employment if he were not permitted to travel abroad."

In the facts of the case, the Hon'ble Apex Court observed that the appellant therein was an Indian citizen, Indian passport holder and a Green Card holder of United States. Serious consequences would ensue in terms of invalidation of Green Card in case appellant was not permitted to travel to United States. Accordingly, permission was granted to the appellant to travel to United States for a period of eight weeks. His passport was ordered to be handed over to him to facilitate travel subject to the condition that it be deposited immediately on his return.

4(iii). The petitioner/applicant in the instant case has placed on record documents to show that he is one of the Directors of 204 Fuels Inc., a Business Corporation registered at No. 7194375 as 'M.B. Share Corporation' that deals with wholesale bulk delivery of fuel in Canada. Respondent has not disputed the factum of petitioner being President and one of the

High Court of H.P.

::: Downloaded on - 03/11/2026 09:47:10 :::CIS

Directors in 204 Fuels Inc. ('M.B. Share Corporation'). The documents placed on record by the petitioner/applicant *prima facie* lead to an inference that 204 Fuels Inc. has entered into transaction for purchasing '690 Nairn Avenue' in Canada and for purchase of property, presence of all the Directors is being insisted upon by the vendor. It has further been urged that for purchasing the aforesaid property $100,000/- has already been paid by the Corporation as advance deposit. The date for closing the purchase transaction has been extended from time to time and now enlarged up to 12.01.2024. That the deposit would be forfeited by the vendor on purchaser's failure to complete the transaction. Respondents have not disputed the above facts.

4(iv). The petitioner/applicant has also placed on record his travel history between India and Canada. The travel history, as indicated in petitioner's affidavit dated 20.12.2023, is as under:

Date of Departure from India	**Date of Arrival to India**
4th October, 2020	**3rd January, 2021**
8th May, 2022	**9th June, 2022**
20th July, 2022	**1st August, 2022**
18th October, 2022	**5th November, 2022**

.

During hearing of the case on 26.12.2023, learned Special Public Prosecutor for the respondent fairly conceded that

High Court of H.P.

::: Downloaded on - 03/11/2026 09:47:10 :::CIS

the travel history indicated by the petitioner was correct. Petitioner has also placed on record his net worth statement dated 21.07.2023 (Annexure A-2), in terms of which, petitioner's net worth is ₹20,44,35,000/- (rupees twenty crores, forty-four lakhs, thirty-five thousand only). This has also not been disputed by the respondent.

During the course of hearing on 26.12.2023, learned counsel for the petitioner/applicant had submitted that petitioner/applicant is ready to furnish bank guarantee for ₹1 Crore (rupees one crore only) to the satisfaction of the learned Trial Court in order to show his bonafides in support of the application for release of the passport and for permission to travel to Canada.

5. As per learned counsel for the parties, *challan* in the case has been filed before the learned Trial Court on 25.10.2023. It is yet under consideration. Petitioner is one of the several co-accused persons. The trial of the case is going to be a long process. Petitioner/applicant has been able to point out his need to visit Canada in connection with his business. He has placed on record his travel history between India and Canada. He has also placed on record his net worth statement. Petitioner/applicant

High Court of H.P.

::: Downloaded on - 03/11/2026 09:47:10 :::CIS

has also shown his bonafides in seeking permission for travelling to Canada for a period of eight weeks.

In view of the discussion in para – 4 above and also keeping in view all relevant factors, in my considered view the petitioner/applicant has made out a case in his favour. Accordingly, this application is allowed, however with due regard to the apprehension expressed by the respondent, it is ordered that: **(i)** Passport of the petitioner/applicant shall be released to him on his furnishing bank guarantee of an amount of ₹1 Crore (Rupees one crore only) as undertaken by him, before and to the satisfaction of learned Trial Court, within two weeks; **(ii)** Petitioner/applicant shall file an undertaking before the learned Trial Court that he shall appear before the Court as and when required. Petitioner/applicant shall also give detail of his address/phone numbers abroad; **(iii)** Petitioner/applicant is permitted to travel to Canada for a period of eight weeks. Petitioner shall come back to India within eight weeks; **(iv)** Petitioner/applicant shall surrender his passport before the learned Trial Court on expiry of eight weeks period from the date of release of passport; and **(v)** In case of violation of above terms and conditions, the bank guarantee furnished by the petitioner/applicant shall stand forfeited.

High Court of H.P.

::: Downloaded on - 03/11/2026 09:47:10 :::CIS

It goes without saying that petitioner/applicant shall abide by all the other conditions imposed in the order dated 13.01.2023 passed in Cr.MP(M) No. 2820 of 2023.

Application stands disposed of in the aforesaid terms.

(Jyotsna Rewal Dua)
Judge.

December 29, 2023 (PK)

High Court of H.P.

::: Downloaded on - 03/11/2026 09:47:10 :::CIS