

Mahendra Kumar M. Jain versus State of H.P.

Cr. Revision No. 323 of 2025

11.08.2025 Present: Kanwar Bhupinder Singh, Advocate, for the petitioner-applicant.

Mr. H.S. Rawat, Additional Advocate General, with Mr. Rohit Sharma, Deputy Advocate General, for the respondent.

CrMP No. 3245 of 2025

By way of the present application, filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), indulgence of this Court has been sought to permit the applicant to visit abroad (USA), in the month of August, 2025, in relaxation to the conditions imposed, by this Court, vide order, dated 25th June, 2025, passed in CrMP No. 2559 of 2025.

2. Vide order, dated 25th June, 2025, while admitting the Criminal Revision for hearing, the application, filed by the applicant, under Section 430 of the BNSS, seeking suspension of order of sentence, dated 8th May, 2018, passed by the learned Judicial Magistrate First Class, Court No. 2, Nalagarh, District Solan, H.P., in Criminal Case No. 87/2 of 2008, titled as State of H.P. versus Pardeep Kumar Tulli & anr., as modified by the

Court of learned Additional Sessions Judge, Nalagarh, vide judgment, dated 30th May, 2025, in Criminal Appeal No. 16-NL/10 of 2018, titled as Mahindra Kumar M. Jain versus State of H.P., has been allowed, by this Court and the following conditions were imposed, on the applicant:

(i) That the applicant shall furnish personal bond in the sum of Rs. 50,000/-, alongwith one surety of the like amount, to the satisfaction of the learned trial Court, within a period of four weeks from today, with an undertaking that in the event of final dismissal of the petition, he will surrender before the learned trial Court to serve the remainder substantive sentence;

(ii) That he shall deposit the fine amount, if any;

(iii) That he shall not leave the country without the prior permission of the Court.

3. Now, by way of the present application, condition No. (iii), as contained in order, dated 25th June, 2025 (supra), has been sought to be relaxed, for the limited period, for the month of August, 2025, in order to undertake visit to abroad, i.e. USA, for his medical follow-up/consultations.

4. As such, a prayer has been made to allow the application.

5. The respondent-State has filed the reply to the application, opposing the prayer, so made in the application, and has prayed for the dismissal of the application.

6. Heard.

7. In **Maneka Gandhi versus Union of India and another**, reported in **(1978) 1 Supreme Court Cases 248**, the Hon'ble Supreme Court has held that no person can be deprived of his right to go abroad, unless, there is a law enabling the State prescribing the procedure for so depriving him. Relevant portion of para-5 of the said judgment, reads as under:

“5.Thus, no person can be deprived of his right to go abroad unless there is a law made by the State prescribing the procedure for so depriving him and the deprivation is effected strictly in accordance with such procedure. It was for this reason, in order to comply with the requirement of Article 21, that Parliament enacted the Passports Act, 1967 for regulating the right to go abroad. It is clear from the provisions of the Passports Act, 1967 that it lays down the circumstances under which a passport may be issued or refused or cancelled or impounded and also prescribes a procedure for doing so, but the question is whether that is sufficient enough or must the procedure comply with any particular requirements? Obviously, the procedure cannot be arbitrary, unfair or unreasonable. This indeed was conceded by the learned Attorney General who with his usual candour frankly stated that it was not possible for him to contend that any procedure howsoever arbitrary, oppressive or unjust may be prescribed by the law.”

8. Right to travel abroad has been held to be basic human right, by the Hon'ble Supreme Court, in **Satish Chandra Verma versus Union of India**, 2019

SCC OnLine SC 2048. Relevant para-5 of the said judgment, is reproduced, as under:

“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.”

9. Similar view has again been taken by the Hon'ble Supreme Court in **Parvez Noordin Lokhandwalia versus State of Maharashtra**, (2020) 10 Supreme Court Cases 77.

10. If the facts and circumstances of the present case are seen in the light of the aforesaid decisions of the Hon'ble Supreme Court, read with the fact that the accompanying Criminal Revision has been admitted for hearing, disposal whereof will take sufficiently long time, then, in the considered opinion of this Court, the applicant is able to make out a case, in his favour.

11. Consequently, the application under consideration is allowed and the applicant is permitted to visit USA with effect from 19th August, 2025 to 8th September, 2025, in relaxation to condition No. (iii), imposed, by this Court, vide order, dated 25th June, 2025, passed in CrMP No. 2559 of 2025, subject to the following

conditions:

(i) That the applicant shall furnish bail bonds, in the sum of ₹ 4,00,000/-, with two sureties of the like amount, to the satisfaction of the learned trial Court, by giving a solemn undertaking to return to the country and report to the learned trial Court on 10th September, 2025, by submitting an affidavit of arrival back to India;

(ii) That the applicant shall not visit any other place, except, for which, the permission has been granted.

12. The application is disposed of, in above terms.

**(Virender Singh)
Judge**

August 11, 2025
(rajni)