

CRM-M-28892-2020 (O&M)

Through video conference

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

**CRM-M-28892-2020 (O&M).
Decided on: November 03, 2020.**

Lalit Kumar

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Abhishek Singh, Advocate,
for the petitioner.**

Mr.Naveen K. Sheoran, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of the impugned order dated 19.8.2020 (Annexure P6), vide which the learned trial Court dismissed the application filed by the petitioner seeking permission to travel abroad during pendency of the trial.

An FIR was lodged against the petitioner under Sections 323, 406, 498-A and 506 IPC, by the wife of the petitioner and

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thereafter on 4.2.2018, vide Annexure P3, the petitioner was granted bail by the Judicial Magistrate First Class, Panchkula. Petitioner was admitted on bail on his furnishing bail bond in the sum of Rs.50,000/- with one surety of like amount subject to the condition that he shall not leave India without the permission of the Court. Thereafter, the petitioner filed an application before the learned trial Court seeking permission to travel abroad on the ground that he is working in Merchant Navy and he has done DNS diploma in Nautical Science and is working with Pacific International Lines and that he had received Sea Farers employment agreement letter from his employer and therefore, he needs to go on the ship from Singapore from 12.6.2018 to 8.12.2018. The application was allowed by the learned trial Court on 11.6.2018 vide Annexure P4 and permission was granted to the petitioner to go abroad on work subject to the condition that he will submit bank guarantee to the tune of Rs.3,00,000/- of any nationalized bank which shall be forfeited if he fails to return back to India as and when required by the Court and one surety in the sum of Rs.50,000/-. The learned counsel for the accused was also directed to appear before the Court on each and every date of hearing of the case on behalf of the accused and thereafter, the petitioner came back to India and joined the trial.

The petitioner has now again filed an application to the learned trial Court vide Annexure P5 stating that he is working in Merchant Navy and he has no previous criminal history and record. It has been further stated in the application by the petitioner that after the death

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of the father of the petitioner all the responsibility of the family came on the shoulder of the petitioner and that he has no other source of income except the job of Merchant Navy. It was stated that he has to join ship crew at Singapore and for that purpose he has to submit his readiness to the shipping company.

The learned trial Court after considering the application filed by the petitioner dismissed the same vide impugned order dated 19.8.2020 (Annexure P6).

The learned counsel for the petitioner has submitted that it is a case of matrimonial dispute with the wife of the petitioner where the allegations of misappropriation of dowry have been leveled. He has further submitted that the petitioner needs to go abroad on ship because he is working in Merchant Navy and that is the only source of his livelihood and no prejudice will be caused to anybody in case he is permitted to travel abroad. He has further submitted regarding conduct of the petitioner that he had earlier also sought permission from the trial Court and went abroad for six months on duty with Merchant Navy and he came back and joined the trial/proceedings which would therefore be relevant for the purpose of deciding the present petition. He has further submitted that the reasoning given by the learned trial Court while dismissing the application that due to outbreak of Covid – 19, there is likelihood that the petitioner may not come back within time from work is erroneous in view of the fact that the petitioner has to depart India by ship and the ship has to come back within the schedule to the port from where

it is departed and therefore, such a reasoning given by the learned trial Court is erroneous.

The learned counsel for the petitioner has further submitted, on instructions, from the petitioner that the schedule for travel abroad on ship is likely to commence next month and the ship will return back in the end of April, 2021 or first week of May 2021, and therefore, he may be granted permission till 15.5.2021.

Learned counsel for the petitioner has also relied upon the latest judgment passed by Hon'ble the Supreme Court in *Parvez Noordin Lokhandwalla vs. State of Maharashtra, Crl. Appeal No.648 of 2020 disposed of on 1.10.2020* to contend that in that case as well there was nothing on record to show the previous bad conduct of the appellant and there were no reasons or the justification to deny him permission in that case and therefore, necessary permission was granted.

Learned state counsel has submitted that the grant of six months time is on the higher side and some shorter time may be considered to be granted to the petitioner in this regard.

Learned counsel for the petitioner while answering to the contention raised by the learned State counsel has submitted that in the schedule of the tour in Merchant Navy, it normally takes 5 to 6 months and therefore, grant of shorter time would be a futile exercise. He further submitted that earlier also he had been granted six months time to travel abroad for work in Merchant Navy and the petitioner returned back in time and joined the trial/proceedings.

I have heard the learned counsel for the parties.

The petitioner was granted bail with a rider that he will not leave India without the permission of the Court and thereafter he applied for permission to the trial Court which was granted by the trial Court and thereafter he returned back and joined the trial/proceedings. There is nothing on the record to show that the petitioner has disentitled himself in this regard. Apart from this, the nature of the proceedings being matrimonial where the allegations of misappropriation of dowry have been leveled, the same can be safeguarded by directing the petitioner to submit a requisite bank guarantee.

In view of above, the present petition is allowed. The order dated 19.8.2020 (Annexure P6) is set aside. The petitioner shall be allowed to go abroad for work purposes in Merchant Navy subject to the condition that he will submit a bank guarantee to the tune of Rs.5 lacs of any nationalized bank which shall be forfeited if he fails to return back to India and when required by the Court and one surety in the sum of Rs.1,00,000/- (Rupees One lac). Learned counsel for the petitioner shall also appear before the learned trial Court on each and every date of hearing of the case on behalf of the petitioner.

November 03, 2020.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No