

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

CRM-M-22999-2021 (O&M)

Date of Decision: 12.8.2021

Gaurav Kaushik

..... Petitioner

Versus

State of Punjab and another

.....Respondents

CRM-M-22994-2021 (O&M)

Gaurav Kaushik

..... Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Karanjeet Singh Brar, Advocate, for the petitioner.

Mr.M.S. Nagra, Assistant Advocate General, Punjab.

Ms. Manmohan Kaur Dhaliwal, Advocate, for the complainant.

Rajesh Bhardwaj, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

This order will dispose of above two petitions bearing CRM-M-22999-2021 and CRM-M-22994-2021, which are inter connected and inter related.

The above petitions have been filed by the petitioner Gaurav Kaushik seeking permission of this Court to go abroad to perform his duty in Merchant Navy for a period of five years and to appear in promotional exam. He has further prayed for issuance of the directions for renewal of his passport for another 10 years.

CRM-M-22999-2021

The petitioner and his family members are involved in a case FIR No.29 dated 5.7.2018 got registered by his wife, namely, Megha D/o Inderjit Sahni r/o H.No.1351 HIG, Phase, Model Town Bathinda under Section 498-A, 406 IPC at Police Station Women, Bathinda. Further prayer has been made for directing respondent No.2-Regional Passport Authority to renew the passport of the petitioner for 10 years.

CRM-M-22994-2021 relates to another case FIR No.159 dated 23.7.2019, which has been got registered by the wife of the petitioner, namely, Megha D/o Inderjit Sahni r/o H.No.1351 HIG, Phase, Model Town Bathinda under Sections 202, 420 IPC and Section 12(1) (d) of Passport Act, 1920 at Police Station Civil Lines, Bathinda, on the allegations that the petitioner had applied for renewal of passport for moving abroad by concealing the facts regarding pendency of litigation between him and his wife and has tried to flee from India without seeking permission of the Court.

There is a matrimonial dispute between the petitioner and his wife, which has resulted into various litigations. The petitioner moved an application before the Chief Judicial Magistrate, Bathinda seeking permission to go abroad in context of employment in Merchant Navy, which was ultimately allowed and the petitioner was permitted to go abroad for six months i.e. from 1.5.2020 to 1.11.2020 as the petitioner was already on anticipatory bail. Thereafter, the petitioner applied for renewal of his passport, which was renewed only for one year. The petitioner was to sail on 25.10.2020. In order to get the time period extended upto 31.3.2021, the petitioner approached this Court by way of filing two petitions bearing CRM-M-31444-2020 and CRM-M-31262-2020 and this Court vide its order

dated 16.10.2020, granted permission to the petitioner for sailing upto 31.3.2021 subject to his making payment of ₹ 5 lacs in the shape of FDR in the name of the minor child and also on his furnishing surety to the tune of ₹ 30 lacs before the trial Court. When the petitioner could not return upto 31.3.2021, he moved another application for extension of time before this Court and the same was allowed. He was granted time till 30.4.2021 and then the petitioner came back within the time granted by this Court. Now the petitioner has alleged that he is required to go abroad again in connection with his duty and also to appear in promotional exam and for which he has prayed for renewal of his passport for a period of 10 years and he has also sought permission of this Court to join Merchant Navy.

Learned counsel for the petitioner has stated that as the petitioner on an earlier occasion has returned back from abroad to India within the time granted by this Court and he has extended the surety already furnished by him till date, so it will be in the fitness of things, if he is permitted to go abroad for performing of his duties and to appear in promotional exam to be held in the month of August, 2021. He has further submitted that the father of the petitioner has already been appointed as his power of attorney by the petitioner authorising him to attend the Court proceedings on his behalf.

Learned counsel for the State while referring to the reply filed by Mr. Gurpreet Singh, DSP Police has stated that as the petitioner has submitted only photocopy of the FDR of ₹ 5 lacs made in the favour of the child so he is not entitled to the relief prayed for as he has not complied with the order by submitting original FDR.

Learned counsel for the complainant has also opposed the

prayer made in the petitions and has prayed for dismissal of the same, however, it has been admitted that original FDR of ₹ 5 lacs has been handed over to the complainant.

I have heard learned counsel for the parties and perused the documents on record.

Admittedly, the petitioner on an earlier occasion had gone abroad to attend his duty by complying with the conditions imposed by this Court i.e. by making FDR of ₹ 5 lacs in the name of child and also by furnishing surety to the tune of ₹ 30 lacs before the trial Court. It is also not disputed that the petitioner returned back within the time granted by this Court. The petitioner is already working in Merchant Navy since 8.10.2007 as a Junior Engineer and in order to earn his livelihood he is required to attend his duty and he has been directed to do so by his employer through a mail placed on record as Annexure P-3.

Keeping in view the above said facts in totality, the following directions are issued:-

1. The trial Court shall frame charges in the case on the date fixed before it, which has been stated to be 19.8.2021. In case, the charges could not be framed on 19.8.2021 due to some unavoidable circumstances, the same be framed within a week thereafter.
2. The petitioner is permitted to go abroad to perform his duty for a period of six month starting from 16.9.2021 to 15.3.2022. He is also permitted to appear in the promotional exam, if it is taken during this period and if the petitioner is found otherwise eligible in accordance to the relevant rules

as applicable. The Passport Authority is directed to consider the application of the petitioner for the renewal of his passport for a period of one year and decide the same within one month from today. In case, the passport is renewed before 15.9.2021, the petitioner would be at liberty to proceed for joining his duties immediately thereafter.

3. That the petitioner shall furnish surety to the tune of ₹ 5Lacs over and above the surety of ₹ 30 Lacs already furnished and extended upto date before the trial Court. Now in total the petitioner has to furnish a surety to the tune of ₹ 35 lacs before the trial Court.
4. That the petitioner shall file an affidavit before the trial Court mentioning therein the name and particulars of the authorized person/power of attorney appearing on his behalf for attending the Court proceedings. He shall also undertake not to dispute the recording of evidence in his absence but in the presence of his power of attorney and counsel. He shall also undertake to immediately appear and join the proceedings before the trial Court on his arrival to India before the expiry of the above said period.

The petitions are disposed of in the above terms.

(RAJESH BHARDWAJ)
JUDGE

12.8.2021
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Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No