

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

CRM-M-46381-2022

Date of Decision: 13.12.2022

Gaurav Kaushik

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CRM-M-46376-2022

Gaurav Kaushik

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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

Mr. Karunesh Kaushal, Assistant Advocate General, Punjab.

Mr. Indresh Goel, Advocate, for respondent No.2.

Mr. Akshay Kumar Goel, Advocate, for respondent No.3.

Rajesh Bhardwaj, J. (ORAL)

This order will dispose of above two petitions bearing CRM-M-46381-2022 and CRM-M-46376-2022, which are inter connected and inter related.

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

CRM-M-46381-2022 relates to a case FIR No.29 dated 5.7.2018 got registered by his wife, namely, Megha D/o Inderjit Sahni under Section 498-A, 406 IPC at Police Station Women, Bathinda. The petitioner and his family members are facing trial in this case.

CRM-M-46376-2022 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 under Sections 202, 420 IPC and Section 12(1) (b) 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.

Learned counsel for the petitioner has submitted that the petitioner is working as Junior Engineer in Merchant Navy and as part and parcel of his duty, he has to go abroad for which he requires renewal of his passport and also the permission of this Court to leave India for a period of two years. He has further submitted that on earlier occasions also the petitioner visited foreign countries after obtaining permission of the Court and he reported back within the stipulated period and he never disobeyed any of the conditions imposed by this Court as well as the lower Court while granting him permission to join his duty and leave India in connection with his work. He submits that in case permission sought for is not granted, then he will suffer an irreparable loss and the petitioner being a Government official is duty bound to join his duty as per direction of his higher authority. It has been further submitted that for the purpose of going abroad, the petitioner requires his passport and as such his passport may kindly be ordered to be renewed for a period of 10 years. It has also been submitted that the petitioner is ready and willing to abide by the conditions imposed by this Court while allowing his above said prayer made in the present petitions. He submits that the petitioner has already furnished surety to the

tune of Rs.35 lacs before the trial Court and also made FDR of Rs.5 lacs in the name of his child as directed by this Court and the said surety is still lying with the Court below.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner and has submitted that the trial is in progress and the prosecution has already examined 3 prosecution witnesses out of 36 witnesses and in case permission to go abroad to perform his duty is granted to him, then trial of the case would be delayed. He further submits that surety of Rs.35 lacs furnished by the petitioner before the trial Court is still with it.

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 in the name of the minor has already been handed over to the complainant.

Learned counsel for the passport authority has submitted that due to the pendency of two criminal cases against the petitioner they have not renewed his passport.

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

Admittedly, the petitioner on earlier occasions 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 ₹ 35 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 visit abroad as

a part of his duty as per direction of his employer. In this regard a mail is placed on record as Annexure P-7. The dispute between the parties is matrimonial in nature and the petitioner cannot be deprived of his right to work and earn his livelihood just because of the pendency of the present cases against him.

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

1. The petitioner is permitted to go abroad to perform his duty for a period of two years starting from 01.01.2023 to 31.12.2024. The Passport Authority is directed to issue the passport to the petitioner within a period of 10 days from today after renewing it for a period of two years i.e. till 31.12.2024.
2. That the petitioner shall furnish surety to the tune of ₹ 15 Lacs over and above the surety of ₹ 35 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 ₹50 lacs before the trial Court.
3. That the petitioner shall file an affidavit before the trial Court mentioning therein the name and particulars of the authorized person/power of attorney holder who would be appearing on his behalf for attending the Court proceedings during the above said period. He shall also mention therein that he will have no objection to the recording of evidence and continuation of proceedings in his absence but in the presence of his attorney/authorized person 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 trial Court is to free to impose any other condition which it deems appropriate keeping in view the facts and circumstance of the present case.

The petitions are disposed of in the above terms.

(RAJESH BHARDWAJ)
JUDGE

13.12.2022
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Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No