

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

101

CRM-M-32737-2023

Date of Decision: 14.07.2023

Deepak Kumar

...Petitioner

Versus

The State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Vishal Aggarwal, Advocate  
for the petitioner.

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**VIKAS SURI, J. (Oral)**

1. This is a petition under Section 438 Cr.P.C. seeking bail apprehending arrest in case FIR No.46, dated 30.05.2023 under Sections 420, 506 IPC and Section 13 of Punjab Travel Professionals (Regulations) Act, 2014 (*sic*-The Punjab Prevention of Human Smuggling Act, 2012, as amended vide Punjab Act No.11 of 2014, whereafter the long title was substituted to read 'The Punjab Travel Professional's Regulation') registered at Police Station Mehtiana, District Hoshiarpur (Annexure P-1).

2. Learned counsel for the petitioner *inter alia* submits that the petitioner is not the employer of deceased and on false allegations, has been implicated in the present case. The petitioner holds a valid Recruitment and Placement Service Licence under the Merchant Shipping (Recruitment and Placement of Seafarers) Rules, 2016 and Regulation 1.4 of the Maritime Labour Convention 2006. Reference is made to the Seafarer Contract of

Employment dated 06.11.2020 (Annexure P-5) entered into between deceased-Sandeep Kumar and the shipping company i.e. Lian Ocean Star Shipping Company, Port of Bushehr. The petitioner has no connection with the same. Learned counsel for the petitioner contends that the FIR has been registered after inordinate delay of two years. The occurrence alleged pertains to May, 2021 and the FIR has been registered on 30.05.2023. It is further submitted that the petitioner undertakes to join investigation and cooperate with the Investigator and abide by any stringent condition that may be imposed for his liberty at this stage.

3. Learned counsel for the petitioner also refers to second page of Annexure P-7, which are in fact two documents annexed as a single annexure, making reference to Policy No.72/3076/181, Damage Case No.1400-1043-45 in the name of Arj Vessel, to submit that it has been mentioned therein that if the cause of death is marine accident and relevant documentations are presented, the insurance policy would be applicable, otherwise the damage is not covered by the company.

4. Notice of motion.

5. On advance notice, Mr. Sanish Girdhar, AAG, Punjab, puts in appearance on behalf of the State and waives service. Ms. A.P.S. Rehan, Advocate, puts in appearance on behalf of complainant-Meena Rani and has filed his Power of Attorney in Court today, which is taken on record.

6. Learned State counsel submits that the petitioner is not cooperating in the investigation and despite six notices issued to him, he has not come present even once to join the investigation. He submits that there are serious allegations against the petitioner and petitioner is the best person who can throw light in the matter. He, therefore, opposed the present

petition.

7. Learned counsel for the complainant would submit that the authenticity of the documents and vernaculars, which purportedly are in Irani language and translated copies thereof are also not authenticated, thus, cannot be relied upon. Moreover, learned counsel for the complainant would point out that the documents referred to in the case of deceased specifically mentioned the name of the vessel i.e. Arj Vessel, on which death is stated to have taken place, whereas the seafarer contract of appointment of petitioner (Annexure P-5) is with regard to Vessel Senaz.

8. I have heard learned counsel for the parties and with their assistance have gone through the record of the case.

9. The allegations against the petitioner are very serious in nature and the petitioner despite being in a position to throw light on the factual matrix and making available the relevant documents, has not responded to the Investigator despite numerous notices having been sent to him. This conduct of the petitioner shows that if he is granted the concession of anticipatory bail at this stage, he will not cooperate with the investigation and can hamper with the evidence.

10. It is also alleged that while the deceased was working in Iran, he has not been paid the salary. There are specific allegations against the petitioner that he had sent the son of complainant to Iran and after the death of Sandeep Kumar, has not even disclosed about the income/earning of her deceased son and with an intention to grab the earnings and insurance claim of deceased, did not give any documents to the complainant. It has also come forth in investigation so far that large amount of money was transferred in the account of the petitioner for sending the son of the

complainant abroad, which would also require a thorough and deeper probe. During investigation, certain WhatsApp messages have come to light, whereby the petitioner has threatened the complainant to implicate her in a case.

11. In the light of the above, it is apparent that the petitioner is not cooperating in the investigation. The involvement of the petitioner is a matter of evidence, which is to be gathered during the course of investigation. Thus, a *prima facie* opinion that the petitioner is not involved cannot be arrived at this stage.

12. Accordingly, the present petition seeking concession of anticipatory bail is dismissed.

July 14, 2023

Harish

(VIKAS SURI)  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |