

(2014) 02 CAL CK 0119

Calcutta High Court

Case No: C.R.M. No. 002 of 2014

T. Jaya

APPELLANT

Vs

The State

RESPONDENT

Date of Decision: Feb. 21, 2014

Citation: (2014) 3 CALLT 51 : (2014) 5 CHN 627

Hon'ble Judges: Tarun Kumar Gupta, J; I.P. Mukerji, J

Bench: Division Bench

Advocate: Arui Prasanth, Advocate for the Appellant; Ajit Prasad and S.K. Mandal,
Advocate for the Respondent

Judgement

1. This is an application for bail of the owner of the vessel "Aqua Marine" which sank near these islands on 26th January, 2014. Forty eight persons were on board. Twenty two lives were lost. According to the prosecution, as made out in Court, this tragedy was solely attributable to the culpable conduct of the owner and other person's associated with the vessel, in taking on board forty eight persons when the capacity was twenty persons.

2. Learned counsel for the petitioner produces a Surveyor's declaration u/s 7 of the Act 1 of 1917 dated 7th January, 2014 where the capacity of the vessel was specified as 50 persons. However, it appears from the statement at the foot of this form that this declaration was provisional subject to further investigation and verification by the Indian Registrar of Shipping. This document is taken on record.

3. The petition was arrested on 29th January, 2014 and is in custody for 24 days. According to Mr. Mandal investigation is not complete and that it is required to be carried out in custody.

4. According to learned counsel for the petitioner, the petitioner is the nominal owner of the vessel, her brother Chandrasekhar had a valid licence and was engaged as a Master to operate the vessel. Her brother was in-charge of the vessel.

5. Mr. Mandal replied to this by submitting that at the time of the incident the brother was not on the vessel.
6. Further it is submitted on behalf of the petitioner that she has a mentally handicapped son. There is nobody to look after this boy except the petitioner. For this reason this boy is also with his mother in prison, at this point of time.
7. First and foremost we take notice of the fact that the petitioner has a mentally handicapped son. This son would be better taken care of at home than within the walls of the prison. The release of the petitioner is warranted on humanitarian considerations, considering the welfare of the child.
8. Secondly, the petitioner was not in actual charge of the vessel at the time of the occurrence.
9. Thirdly, petitioner has been in custody for 24 days. Investigation has been carried out. There is no case that the petitioner would flee from justice or interfere with the witnesses or tamper with the evidence.
10. Finally, considering the nature and gravity of the petitioner's alleged involvement in the alleged offence we feel that 24 days' custody was sufficient for investigation and the rest of the investigation could be carried out without the petitioner being in custody.
11. Therefore, let the petition be released on bail forthwith on the following conditions:
 - (i) She should furnish a bond of Rs. 10,000/- together with two surety bonds of Rs. 5000/- each to the satisfaction of the learned Chief Judicial Magistrate, Port Blair;
 - (ii) She should meet the investigation officer as and when called;
 - (iii) She will not leave these islands without the permission of the concerned Court.
12. It is only expect that the investigation may be completed as expeditiously as possible, for the ends of justice. Let the usual formalities be taken for early transmission of this order to the learned court below/jail.