

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS
Monday, the 3rd day of August 2026 / 12th Sravana, 1948
WP(C) NO. 17115 OF 2026(L)

PETITIONERS:

1. IVANOV ALEXANDER AGED 61 YEARS CAPTAIN OF VESSEL MSC ELSA 3, RUSSIAN NATIONAL HOLDING PASSPORT BEARING NO. 1680 195, 39-192, MARCHENKO STREET, CHELYABINSK REGION, RUSSIAN FEDERATION CURRENTLY RESIDING AT VIVANTA ERNAKULAM, SHANMUGHAM RD, MARINE DRIVE, KOCHI, ERNAKULAM, KERALA. , PIN - 682011
2. REYNOLD PAREDES MAHINAY AGED 60 YEARS CHIEF OFFICER OF VESSEL MSC ELSA 3, PHILIPPINE NATIONAL, HOLDING PASSPORT BEARING NO. P60059 85A, B15 L11 MARINAO SOUTH CENTER POINT MOONWALK, PARANAQUE CITY CURRENTLY RESIDING AT VIVANTA ERNAKULAM, SHANMUGHAM RD, MARINE DRIVE, KOCHI, ERNAKULAM, KERALA, PIN - 682011
3. OLEKSII CHORNYI AGED 50 YEARS CHIEF ENGINEER OF VESSEL MSC ELSA 3, UKRAINIAN NATIONAL HOLDING PASSPORT BEARING NO. FH039 273, 14 LYTOVSKA STR. APP2, ODESA, UKRAINE CURRENTLY RESIDING AT VIVANTA ERNAKULAM, SHANMUGHAM RD, MARINE DRIVE, KOCHI, ERNAKULAM, KERALA, PIN - 682011
4. KAKHIDZE ROMAN AGED 55 YEARS 2ND ENGINEER OF VESSEL MSC ELSA 3, GEORGIAN NATIONAL HOLDING PASSPORT BEARING NO. HAB047 67, RURUA STR 5 APP 45, BATUMI, GEORGIA CURRENTLY RESIDING AT VIVANTA ERNAKULAM, SHANMUGHAM RD, MARINE DRIVE, KOCHI, ERNAKULAM, KERALA, PIN - 682011
5. HORDYEVYEV VALERIY AGED 69 YEARS ELECTRO TECHNICAL OFFICER OF VESSEL MSC ELSA 3, UKRAINIAN NATIONAL HOLDING PASSPORT BEARING NO. FU513 460, APT 378, 55/6, LUFSDORFSJATA DOROGA, ODESA, UKRAINE CURRENTLY RESIDING AT VIVANTA ERNAKULAM, SHANMUGHAM RD, MARINE DRIVE, KOCHI, ERNAKULAM, KERALA, PIN - 682011
6. CASTANEDA RONALD PUNZALAN AGED 44 YEARS ABLE SEAMAN OF VESSEL MSC ELSA 3, PHILIPPINE NATIONAL HOLDING PASSPORT BEARING NO. P1992 447B, 0598 CUBCUB CAPAS TARLAC, PHILLIPPINES CURRENTLY RESIDING AT VIVANTA ERNAKULAM, SHANMUGHAM RD, MARINE DRIVE, KOCHI, ERNAKULAM, KERALA, PIN - 682011
7. VELASCO RYAN ONTOLAN AGED 33 YEARS MOTORMAN OF VESSEL MSC ELSA 3, PHILIPPINE NATIONAL HOLDING PASSPORT BEARING NO. P9130 638B, POBLACION EAST SALUG, PHILLIPPINES CURRENTLY RESIDING AT VIVANTA ERNAKULAM, SHANMUGHAM RD, MARINE DRIVE, KOCHI, ERNAKULAM, KERALA, PIN - 682011

RESPONDENTS:

1. UNION OF INDIA REPRESENTED BY SECRETARY, MINISTRY OF PORT, SHIPPING AND WATERWAYS, HAVING HIS OFFICE AT PARIVAHAN BHAVAN, 1, PARLIAMENT STREET, NEW DELHI, PIN - 110001
2. DIRECTOR GENERAL OF SHIPPING HAVING OFFICE AT KABJUR VILLAGE RD, 9TH FLOOR BETA BUILDING, I-THINK TECHNO CAMPUS, KANJURMARG EAST, MUMBAI,

- MAHARASHTRA, PIN - 400042
3. PRINCIPAL OFFICER, MERCANTILE MARINE DEPARTMENT KOCHI, WILLINGDON ISLAND, KOCHI, KERALA., PIN - 682009
 4. STATE OF KERALA REPRESENTED BY SECRETARY, HOME DEPARTMENT SECRETARIATE, THIRUVANANTHAPURAM PIN - 695001
 5. INSPECTOR GENERAL OF POLICE COASTAL SECURITY, KERALA COASTAL POLICE HEADQUARTERS, SHANMUGHAM ROAD, MARINE DRIVE, ERNAKULAM, PIN - 682031
 6. STATION HOUSE OFFICER COASTAL POLICE STATION, FORT KOCHI, PIN - 682001

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to

a) pass an order directing the Respondent No. 3 consider and pass orders allowing Exhibit P20 representation submitted by the Petitioner No. 5, within a time frame to be mentioned by this Hon'ble Court, pending disposal of this Writ Petition.

b) pass appropriate orders directing the release of the Petitioners' Passports and permitting Petitioners to return to their respective countries of residence, pending disposal of this Writ Petition.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this court's orders dated 30-06-2026, 09-06-2026 and upon hearing the arguments of M/S. GRASHIOUS KURIAKOSE, SENIOR ADVOCATE along with M/S. PRANOY K. KOTTARAM, AMITAVA MAJUMDAR, GOENKA RUCHIR BIKAS CHANDRA, ASHUTOSH TIWARI, SIVARAMAN P.L, ATHUL BABU, SREENAND UDAYAN, Advocates for the petitioners, SMT. GOWRI MENON, CENTRAL GOVERNMENT COUNSEL for R1 to R3 and of GOVERNMENT PLEADER for R4 to R6, the court passed the following:

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MONDAY, THE 3RD DAY OF AUGUST 2026

WP(C) No. 17115 of 2026

IVANOV ALEXANDER & OTHERS

VS

UNION OF INDIA & OTHERS

ADVS FOR PETITIONER/S:

SRI.PRANoy K.KOTTARAM,
SHRI.AMITAVA MAJUMDAR,
SHRI.GOENKA RUCHIR BIKAS CHANDRA,
SHRI.ASHUTOSH TIWARI,
SHRI.SIVARAMAN P.L,
SHRI.ATHUL BABU,
SHRI.SREENAND UDAYAN,
SRI.GRASHIOUS KURIAKOSE (SR.)

ADVS FOR RESPONDENT/S:

SMT.GOWRI MENON, CGC



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BECHU KURIAN THOMAS, J.**W.P.(C) No.17115 of 2026**Dated this the 3rd day of August, 2026**ORDER**

Read the order dated 09.06.2026.

2. As per the said order, this Court had permitted petitioners 5, 6 and 7 to leave India on conditions and observed that though all of the petitioners 1 to 4 are not the key personnel, still, they stand on a different footing and hence their claim for permission to leave India be considered separately. The present consideration is with respect to petitioners 2 and 4 who, according to them, are not required to be detained in India indefinitely.

3. Petitioners were the crew members on board a vessel MSC ELSA 3 – IMO 9123221, which sank off the coast of Kochi on 25.05.2025. The following are the designation of petitioners 1 to 4 vis-a-vis the vessel and nationality:

Sr. No.	Petitioner Name	Designation	Nationality
1	Ivanov Alexander	Master	Russian
2	Reynold Paredes Mahinay	Chief Officer	Filipino
3	Chornyl Oleksil	Chief Engineer	Ukrainian
4	Kakhidze Roman	2 nd Engineer	Georgian

4. The factual aspects have already been specifically adverted

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to in the order dated 09.06.2026, and hence a repetition is avoided except to the extent necessary. Suffice to state, petitioners have been remaining in India from 25.05.2025, awaiting conclusion of investigation/inquiry. The investigation into the crime registered as FIR No.14 of 2025 of Coastal Police, Fort Kochi, has already been completed and the final report has also been filed. However, pursuant to a preliminary enquiry conducted by the third respondent, which went on for months together, an investigation under section 360 of the Merchant Shipping Act, 1958 (for short 'the Act') was requested and it is underway. Since the preliminary enquiry revealed the involvement of only three persons for the shipping casualty of 'MSC ELSA 3', which includes petitioners 1 and 3, the remaining five petitioners are not under the scanner of the investigation under section 360 of the Act.

5. Section 360 of the Act, deals with an application to the court empowered under section 361 for carrying out a formal investigation into any shipping casualty. The request is generally preceded by a preliminary inquiry by the Central Government. If such an application is filed, the court empowered shall thereupon make such investigation into the shipping casualty. The investigation may inquire into any charge of incompetency or misconduct arising, in the course

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of the investigation, against any master, mate or engineer, as well as into any charge of a wrongful act or default on his part causing the shipping casualty.

6. Since the Central Government has already directed that section 363 of the Act is relevant, the same is extracted below:

“363. Power of Central Government to direct inquiry into charges of in competency or misconduct.—(1) If the Central Government has reason to believe that there are grounds for charging any master, mate or engineer with in competency or misconduct, otherwise than in the course of a formal investigation into a shipping casualty, the Central Government,—

(a) if the master, mate or engineer holds a certificate under this Act, in any case;

(b) if the master, mate or engineer holds a certificate under the law of any country outside India, in any case where the in competency or misconduct has occurred on board an Indian ship;

may transmit a statement of the case to any court having jurisdiction under section 361, which is at or nearest to the place where it may be convenient for the parties and witnesses to attend, and may direct that court to make an inquiry into that charge.

(2) Before commencing the inquiry, the court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the Central Government.”

7. Similarly the scope of investigation by the Magistrate is specified in sections 362 and 364, they are also extracted below:

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“362. Power of court of investigation to inquire into charges against master, mates and engineers.—

(1) Any court making a formal investigation into a shipping casualty may inquire into any charge of in competency or misconduct arising, in the course of the investigation, against any master, mate or engineer, as well as into any charge of a wrongful act or default on his part causing the shipping casualty.

(2) In every case in which any such charge, whether of in competency or misconduct, or of a wrongful act or default, as aforesaid, arises against any master, mate or engineer, in the course of an investigation, the court shall, before the commencement of the inquiry, cause to be furnished to him a statement of the case upon which the inquiry has been directed.

364. Opportunity to be given to person to make defence.—*For the purpose of any inquiry under this Part into any charge against a master, mate or engineer, the court may summon him to appear, and shall give him an opportunity of making a defence either in person or otherwise.”*

8. In the instant case, the investigation directed to be conducted by the empowered court after a preliminary inquiry by the Central Government is only against petitioners 1 and 3 and not against petitioner 2 and 4. The period within which the investigation will be concluded is not evident and invariably, it will go on for months together. Petitioners 2 and 4 are not at present within the zone of investigation as the Central Government had not, in the

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preliminary inquiry, found any involvement on their part in the casualty. Though, with the wide powers of investigation, the empowered court may or may not, ultimately, find the involvement of other persons also, that is a remote possibility. To detain petitioners 2 and 4, against whom the Central Government could not find any involvement, till the formal investigation is completed, will, in my view, amount to deprivation of their right to personal liberty without due procedure.

9. Though in the order dated 09.06.2026, this Court has already referred to the Guidelines on Fair Treatment of Seafarers in the Event of a Maritime Accident, 2006, (for short “The Guidelines”), the same is extracted as follows:

“.....The said Guideline has identified a ‘Seafarer’ as a special category of worker and has laid down, considering the global nature of the shipping industry and the different jurisdictions that they may come into contact with, as requiring special protection, especially in relation to contacts with public authorities. It has been laid down that the objective of the Guidelines is to ensure that following a maritime accident, seafarers are treated fairly, and during any investigation as well as detention by public authorities, the detention is not longer than necessary. The aforesaid Guidelines provide that “the investigation of a maritime accident should not prejudice the seafarer in terms of repatriation, lodgings, subsistence, payment of wages and other benefits and medical care.” Of course those are only guidelines framed by the International Maritime

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Organization and are not binding. However, the said principle cannot be shrugged aside or ignored lightly.”

10. Fair treatment of a seafarer is a mandate and this Court cannot permit the seafarers to be detained longer than it is necessary. As far as petitioners 2 and 4 are concerned, there is nothing that requires their presence in India, except perhaps to appear as possible witnesses in the investigation under section 361 of the Act. Further, in the criminal case, those two petitioners have already been granted bail and if their presence is required at any time, appropriate directions can be issued for that purpose. In fact the second respondent has practically expressed his no objection in the petitioners, except the key personnel, leaving the country, as is revealed from Ext.P23 and Ext.P17. Petitioners 2 and 4 are also not identified as key personnel.

11. In view of the above, petitioners 2 and 4 are permitted to leave India on the following conditions:

(i) Petitioners 2 and 4 are hereby permitted to leave India subject to the condition that they execute a simple bond for Rs.10,00,000/- (Rupees Ten lakh only) each, with two solvent sureties or furnish a Bank Guarantee for Rs. 1,00,000/- (One Lakh only), before the Judicial First Class Magistrate Court-I, Kochi, undertaking that they would co-operate with the trial of the case as

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well as with the investigation conducted under section 361 of the Merchant Shipping Act, 1958 and come to India, if directed by the jurisdictional court.

(ii) Petitioners 2 and 4 shall also furnish their permanent address, mobile numbers and e-mail addresses and file affidavits with the above details before the Judicial First Class Magistrate Court-I, Kochi, including an undertaking to appear online as and when directed by the court or by any investigating officer or by the second respondent.

(iii) If petitioners 2 and 4 abide by the above conditions, the respondents shall provide all necessary assistance to ensure that those petitioners are able to travel back to their home country.

(iv) In cases any modification/variation/deletion of any of the above conditions are required, the parties would be at liberty to approach the jurisdictional court in accordance with law.

(v) Petitioners 2 and 4 will be entitled to seek return of their passports from the authority which is in custody of them.

Sd/-

BECHU KURIAN THOMAS
JUDGE

vps

APPENDIX OF WP(C) 17115/2026

Exhibit P17

**TRUE COPY OF THE LETTER DATED 08TH DECEMBER 2025 BY THE
DG SHIPPING**

Exhibit P23

TRUE COPY OF THE LETTER DATED 02ND APRIL 2026

