



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-003598

First-tier Tribunal No: PA/02879/2020

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 10 July 2023

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

BKK
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Karnik of Counsel
For the Respondent: Mr Bates a Senior Home Office Presenting Officer

Heard at Manchester Civil Justice Centre on 21 June 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the Appellant, likely to lead members of the public to identify the Appellant. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The Appellant was born on 3 December 1994. He is a citizen of Iran. He appealed against the decision of the Respondent dated 6 March 2020, refusing his protection and human rights claim. That appeal was dismissed by First-tier Tribunal Malik in a decision promulgated on 4 November 2021.

Permission to appeal

2. Permission was granted by Judge Scott on 30 May 2022 who stated:

“3... In finding the appellant to be not credible, the Judge made findings at [17] - [20] of the decision on the plausibility of the appellant’s account. It is arguable that in assessing the credibility of the appellant’s account, the Judge erred in failing to have regard to the detail and consistency of the account and instead placing too much emphasis on the plausibility of it.”

The First-tier Tribunal decision

3. Judge Malik made the following findings:

“17. The appellant's fear is based on his claim of having been ambushed at a time when the bags being transported contained KDPI materials, rather than being a kolbar per se. Working as a kolbar may result in prosecution, but not necessarily persecution. I accept though, as a Kurd, if found in possession of KDPI materials in Iran, this would place the appellant at risk - but having considered his account, I find he has fabricated the core of his claim to form what I find to be a false asylum claim, for the following reasons:

18. For example, the clip produced at the hearing showed a number of people - and to the lower standard I accept the appellant was one of them, but even so, there was nothing to indicate where or when it was taken, or in what capacity. This clip does not of itself confirm the appellant worked as a kolbar. Given the role of a smuggler is secret, I do not find it reasonably likely he or his friends would have taken such footage and thus placed themselves at risk from the authorities purely for a “memory”, as at the time of doing so, the appellant could not have had any expectation that he would be fleeing Iran at some later point - or that the footage would not fall into the hands of the authorities. This equally applies to the photographs provided by the appellant. Further his reluctance to involve himself in the Kurdish cause in Iran because he was scared and his refusal to transport KDPI materials across the border for fear of risking his life and that of his family indicates he is a cautious man and it calls into question why he would then allow himself to be part of such footage/photographs other than to bolster a false asylum claim.

19. Further given the appellant’s claim of being scared to be involved in KDPI activities in Iran and knowing others in his group may have been smuggling KDPI materials - so much so that he checked his bag on two occasions, I do not find it reasonably likely that he would have taken, at face value, their word that they were not smuggling KDPI materials on the night in question or on any other occasion.

20. The appellant says there is a system in place to avoid detection/advance warning of the authority's presence. In his statement, he says “...I myself know this and everyone who is a smuggler, knows the Iranian authorities have an outpost around where were ambushed”. If this was so, there is no reasonable explanation as to why he and his colleagues decided to take the route they took - more so if it was known to his colleagues that there were KDPI materials in the bags. The appellant in any event cannot say it was the authorities who told them to stop or fired the shots - but even if it was, I do not find it reasonably likely, faced with guns, that the appellant and others would have, or been able to run away from the authorities without taking the risk of being fired at, harmed or even killed - or that the authorities would not have come after them. This too causes me to find the appellant has fabricated his claim to have been ambushed by the authorities whilst in possession of KDPI materials or at all.

Sur place activities

21. Turning next to the appellant’s claimed sur place activities in the UK. Despite having come to the UK in late 2019, he did not attend outside the Iranian embassy until July 2020. He did not show any interest in any political party or of supporting the Kurdish cause in Iran due to the risk and because he was scared. He was not a

member or supporter of the KDPI there and there is no evidence now that he has since become a member or supporter here. Whilst he is under no obligation to do so, the KDPI do provide letters of support for their members or supporters who have come to the attention of the authorities in Iran on request, as set out in the respondent's CPIN of January 2019; there is nothing to suggest the appellant has requested such a letter.

22. Whilst it appears his interest in attending outside the Iranian embassy was after the respondent refused his protection claim, which indicates an attempt to bolster a false protection claim, nonetheless, he claims to have attended six times. I cannot say on the evidence before me the number of occasions he did so, but the photographs on the Facebook account satisfies me, to the lower standard, that he appears to be outside the embassy. Yet the Iranian authorities cannot monitor all those who attend outside their embassy. For the reasons set out in this decision I reject the appellant's account of previously coming to the attention of the authorities in Iran. There is no evidence to suggest if his attendance has been published in the UK media or in Iran. The appellant had no profile in attending; he was not an organiser or a speaker. There is nothing to suggest he has attended any meeting in support of the KDPI in the UK. His activity outside the embassy does not suggest he is an activist and at best he is simply a member of the crowd holding pictures when a photograph was taken of him by a friend and subsequently posted on to a Facebook account.

23. The Facebook account/posts are in the name of Behnam Karamat, which is not the appellant's name. In his screening interview at Q1.1 he was asked to provide his "*Full name (first names(s) FAMILY name)*". There was no mention of the name '*Karamat*' as his name, family name or the name of his father or grandfather. At Q1.3 he was also asked if he had ever used any other names and he said no. He confirmed at the start of his asylum interview that he had answered correctly in his screening interview. In his statement at paragraph 21 he says he has used his "*...real name*" on the Facebook posts. There is no reasonable explanation as to why he would use a name different to that he has provided in the UK for his protection claim or open a Facebook account in a different name if it was his intention to link his posts to himself. Whilst I accept there are photographs of him on some of the posts, the Facebook account is not in his name. Further some of the narrative in the posts has not been translated into English and I am unable to ascertain what is said in them. The appellant has not provided any activity history for the Facebook account to indicate if the posts were public continuously and I am also unable to ascertain from them if the account was public or if it was made public at the time the posts were copied and then returned to private. The burden is on the appellant and there is no evidence to suggest the posts have come to the attention of the authorities in Iran and given the Facebook account is not in his name, the weight I can attach to the posts is limited.

24. The appellant says he fled Iran illegally. Given my finding that he is not of interest to the authorities there for any of his claimed reasons, I do not find it reasonably likely that he would have had the need to do so - but even if I am wrong, illegal exit of itself would not be a significant risk factor, even given his Kurdish ethnicity.

25. It was though held in **HB (Kurds) Iran CG [2018] UKUT 430**, that the authorities in Iran have become increasingly suspicious of and sensitive to Kurdish political activity. Kurds are regarded with greater suspicion "*and are reasonably likely to be subjected to heightened scrutiny on return to Iran*" and "*Kurdish ethnicity is nevertheless a risk factor which, when combined with other factors, may create a real risk of persecution or Article 3 ill-treatment*". There is a 'hair-trigger' approach and the threshold for suspicion is low. The appellant has not lived in the KRI. He was not a supporter of the KDPI in Iran. I reject his account of coming to the attention of the authorities in Iran for his claimed reasons. He has not been found in possession of any KDPI materials. At its highest, he has attended outside the Iranian embassy in the UK on more than one occasion holding photographs. There is nothing to suggest given his lack of support in Iran for the KDPI or any Kurdish cause that he would seek to support them on his return there. The Facebook account where he has sought to publicise sur place activities is not in his name. He is not a member of the KDPI and there is no evidence of him attending any of their meetings or of any involvement in any organised activity on their behalf. This causes me to find that the appellant does not fall into any of the factors that would place him at heightened risk as a Kurd and

consequently I find he would not be at risk on return to Iran for any of his claimed reasons.”

The Appellant’s grounds seeking permission to appeal

4. The grounds assert that:

“Ground 1.

7. The ... FTT erroneously and irrationally failed to follow the proper approach to the assessment of credibility. The Tribunal is required, as was submitted on behalf of the Appellant, to undertake a structured approach to the assessment of credibility, considering all material and consistency internally and externally and with respect to objective evidence, KB & AH (credibility-structured approach) Pakistan [2017] UKUT 491 (IAC). FTTJ Malik failed to do so.

8. Additionally, the FTT decision shows that the only basis upon which FTTJ Malik rejects his claim is on her view taken in respect of plausibility, the Appellant respectfully contends that the FTT fell into the error identified in KB & AH:

“a more structured approach apt to help judges avoid the temptation to look at the evidence in a one-dimensional way or to focus in an ad hoc way solely on whichever indicator or factor appears foremost or opportune”

9. In HK v SSHD [2006] EWCA Civ 1037 at [28] Neuberger LJ stated:

“even most, of the appellant's story may seem inherently unlikely but that does not mean that it is untrue. The ingredients of the story, and the story as a whole, have to be considered against the available country evidence and reliable expert evidence, and other familiar factors, such as consistency with what the appellant has said before, and with other factual evidence (where there is any)”

10. The failure to follow this approach was wrong.

11. The Appellant’s substantial body of supporting evidence included background country evidence, including the SSHD’s CPIN on smugglers, that showed:

- i. The Appellant’s home area Piransahr was a border area and one where the KDPI were active [AB 69, 85, 111, 125, 177];
- ii. Kolbars worked in Piransahr and had been attacked by Iranian military [AB 171, 172, 130, 131];
- iii. There was substantial “employment” of Kolbars in border areas, substantial quantities of materials are transported, and that such work was highly organised, dangerous [AB 107, 157 159];
- iv. Smugglers are exclusively Kurdish [AB 158].

This was material evidence identified to the FTT that supported his account and had to be evaluated as part of a rounded assessment of all the evidence. The failure to do so was an error.

12. Additionally, the FTT does not conclude that the appellant gave an inconsistent account; either it is to be inferred that the FTT accepts that the Appellant has given a consistent account, he says he has, in which case that is a factor that has to fall in his favour, or the FTT fails to make a finding on a material matter, in either case the FTT erred.

13. The FTT further fails to consider, or do so properly, the subjective evidence the Appellant provided showing him working as a Kolbar [AB 48-51], and the video evidence see attached hyperlink https://1drv.ms/v/s!ApTcP2ICRe_fiZ4DCjXv98Hb868w?e=3QzF8m

14. This powerful evidence clearly showed the Appellant working as a Kolbar, the FTT failed to follow the approach required by *KV (Sri Lanka) v SSHD [2019] UKSC 10* at [25] and, [31] - *the likelihood of both possibilities had to be compared with each other before either of them could be discounted*.

15. The reasoning at [18] of the decision shows that the FTT misapplied the proper standard of proof. FTTJ Malik failed to consider:

- i. The alternative hypothesis - if this was not evidence of him working as a Kolbar what was it?

- ii. The question of whether there was a real possibility that he was working as a Kolbar, irrespective of whether he was also attacked;
- iii. That the inquiry is into credibility only of a partial character.

Ground 2

16. The Appellant respectfully submits that FTTJ Malik failed to consider a significant part of his claim, his risk upon return in light of his political beliefs, consequently she misapplied relevant country guidance. HB (Kurds) Iran CG [2018] UKUT 430 (IAC) and PS (Christianity - risk) Iran CG [2020] UKUT 46 (IAC).

17. At the outset of his claim, the Appellant indicated that he believed in fighting for Kurdish rights [AB 6]. His evidence included a substantial body of overt political material [AB 9- 49] that was supportive of Kurdish causes.

18. The headnote of HB Kurds at [9] says:

“Even ‘low-level’ political activity, or activity that is perceived to be political, such as, by way of example only, mere possession of leaflets espousing or supporting Kurdish rights, if discovered, involves the same risk of persecution or Article 3 ill-treatment. Each case however, depends on its own facts and an assessment will need to be made as to the nature of the material possessed and how it would be likely to be viewed by the Iranian authorities in the context of the foregoing guidance”

19. The Appellant falls squarely into this category, and at [25] the FTT misapplies CG erroneously limiting it to supporters of the KDPI.

20. He is Kurdish, he comes from a border region, he has expressed political beliefs both online and in person, the FTT accepts that he has demonstrated outside the Iranian Embassy. Irrespective of whether the Iranian authorities have evidence of his activity the FTT fails to address how he might be perceived when questioned upon arrival - he cannot be expected to lie about that activity, or his background, a Kurdish person who comes from a border area where the KDPI and Komala have a substantial base of support.

21. Additionally, the FTT fails to address the Appellant’s actual claim, he did not profess to be a member or supporter of the KDPI, but he did profess support for Kurdish rights. He further explained that he was fearful of being active in Iran because of the consequences he could face. He fell squarely into a category of person identified in *HJ (Iran)*. The failure to consider this material aspect of his claim was an error of law.”

Rule 24 notice

5. There was no rule 24 notice.

Oral submissions

6. Mr Bates submitted regarding Ground 1 that the Judge did not find it credible or plausible that smugglers would video themselves. That is not irrational as the video does not establish the claimed smuggling especially as the Appellant said he was not open in supporting the Kurdish cause. Why would he permit the smuggling to be videoed? Why need a memory and be at risk if found? Why trust others if he checked goods twice previously? If he was cautious why would he not check again? The decision is rational. Regarding consistency the Judge does not dispute he was a smuggler but doubts he is of interest to the authorities. Implausibility can be a valid reason to reject a claim. Here it is not just plausibility as the Judge does not accept what he said he did.
7. Regarding Ground 2 and HJ (Iran), the Judge was aware of the sur place activity and referred to it at [6], [14], [21], and [23]. She gave cogent

reasons for rejecting his claim as per XX (PJAK – sur place activities – Facebook) (CG) [2022] UKUT 00023). The Judge made findings as to the genuineness of his beliefs. The Judge did not explicitly state whether the political motivation was genuine but at [25] sets out findings and it is clearly implicit he was not genuinely politically motivated and would not in reality seek to expose himself.

8. Mr Karnik submitted regarding Ground 1 that the decision is absent on self-direction, authorities, and the question of doubt. Not every decision has to set out everything regarding credibility as explained in KB and AH. The decision rests entirely on the question of inherent implausibility. The Tribunal should exercise caution on credibility as explained in Y [2006] EWCA Civ 1223. The evidence was internally consistent and consistent with other evidence. Plausibility comes last in the list for the reason given in Y. The Tribunal looked at the video. The Appellant is in it. The only rational explanation is it shows a group of men carrying large boxes through terrain that can only rationally be considered as smuggling. It was not taken by the Appellant as he is in it. Likewise the pictures. This underpins the irrationality by the Judge in her consideration of the evidence. He had been consistent from the outset. This has not been addressed by the Judge. His home area is a border area where the KDPI are active and Kolbar are attacked by Iranian military. There is substantial employment for Kolbars. The background evidence on that could not be ignored. HK is connected to Y in that the Judge has to look at country evidence as part of anxious scrutiny. This Appeal was heard before XX and MAH (Egypt) [2023] EWCA Civ 216 were promulgated. The Judge essentially says the pictures and video have been fabricated for the purpose of fabricating an asylum claim.

9. As explained in SB (Sri Lanka) [2019] EWCA Civ 160;

“46. In cases (such as the present) where the credibility of the appellant is in issue courts adopt a variety of different evaluative techniques to assess the evidence. The court will for instance consider:

- (i) the consistency (or otherwise) of accounts given to investigators at different points in time;
- (ii) the consistency (or otherwise) of an appellant's narrative case for asylum with his actual conduct at earlier stages and periods in time;
- (iii) whether, on facts found or agreed or which are incontrovertible, the appellant is a person who can be categorised as at risk if returned, and, if so, as to the nature and extent of that risk (taking account of applicable Country Guidance);
- (iv) the adequacy (or by contrast paucity) of evidence on relevant issues that, logically, the appellant should be able to adduce in order to support his or her case; and
- (v) the overall plausibility of an appellant's account.”

10. Regarding Ground 2 the Judge failed to recognise even low level political activity independent of a political party places an individual at risk. His evidence is very clear. The Judge has misapplied HB (Kurds). He said he is politically engaged but not a political party member so there is no need for a KDPI letter. [25] is problematic in relation to HJ (Iran) as he has not been active in Iran where there is a repressive regime which is

hardly surprising and should not be held against him. He has shown his political views here. HJ (Iran) was neither mentioned nor applied. What he would do on return was not asked or answered which is a fundamental error. He is Kurdish and from a border area. There is no clear finding regarding illegal exit but that is the only rational explanation for exit. He has expressed his views on the internet. He can say he made a false claim but to what extent would the Iranian authorities impute a political opinion to lead on to the second stage of questioning. This was not considered by the Judge.

11. Mr Bates responded that the Judge does not explicitly reject the claim to be a smuggler but found he had not come to the attention of the authorities. In relation to the video, the Judge finds that it is not clear what he is doing. His failure not to join the KDPI while here forms part of the overall consideration.

Discussion

12. Regarding Ground 1, as a general matter I bear in mind OD (Ivory Coast) v Secretary of State for the Home Department [2008] EWCA Civ 1299 which states that;

"14. An immigration judge's determination should cover four elements, but the length to which the judge needs to go is variable. As with any judgment, it should be as long as it needs to be but no longer. The four elements which should be covered are these: the judge should direct himself as to the relevant law; he should identify the important facts or factual issues and, where these are disputed, should state his findings; he should state the overall conclusion which he draws from his factual findings and from the material before him as to whether the appellant has a valid asylum or human rights claim; and he should explain his reasons for arriving at those conclusions sufficiently that the parties can see that he has considered the relevant matters and can understand why he has decided the case as he has."

13. I also bear in mind EJA v Secretary of State for the Home Department [2017] EWCA Civ 10 which states that;

"27. Decisions of tribunals should not become formulaic and rarely benefit from copious citation of authority. Arguments that reduce to the proposition that the F-tT has failed to mention *dicta* from a series of cases in the Court of Appeal or elsewhere will rarely prosper. Similarly, as Lord Hoffmann said in Piglowska v Piglowski [1999] 1 WLR 1360, 1372, "reasons should be read on the assumption that, unless he has demonstrated the contrary, the judge knew how he should perform his functions and which matters he should take into account". He added that an "appellate court should resist the temptation to subvert the principle that they should not substitute their own discretion for that of the judge by a narrow textual analysis which enables them to claim that he misdirected himself". Moreover, some principles are so firmly embedded in judicial thinking that they do not need to be recited. For example, it would be surprising to see in every civil judgment a paragraph dealing with the burden and standard of proof; or in every running down action a treatise, however short, on the law of negligence. That said, the reader of any judicial decision must be reassured from its content that the court or tribunal has applied the correct legal test to any question it is deciding."

14. I note that Y does not, as submitted, explain why plausibility comes last in the factors to be considered. It states;

"25. There seems to me to be very little dispute ... as to the legal principles applicable to the approach which an ... immigration judge, should adopt towards issues of credibility. The fundamental one is that he should be cautious before finding an account to be inherently incredible, because there is a considerable risk that he will be over influenced by his own views on what is or is not plausible, and those views will have inevitably been influenced by his own background in this country and by the customs and ways of our own society. It is therefore important that he should seek to view an appellant's account of events...in the context of conditions in the country from which the appellant comes. The dangers were well described in an article by Sir Thomas Bingham, as he then was, in 1985 in a passage quoted by the IAT in Kasolo v SSHD 13190, the passage being taken from an article in Current Legal Problems. Sir Thomas Bingham said this:

"An English judge may have, or think that he has, a shrewd idea of how a Lloyds Broker or a Bristol wholesaler, or a Norfolk farmer, might react in some situation which is canvassed in the course of a case but he may, and I think should, feel very much more uncertain about the reactions of a Nigerian merchant, or an Indian ships' engineer, or a Yugoslav banker. Or even, to take a more homely example, a Sikh shopkeeper trading in Bradford. No judge worth his salt could possibl[y] assume that men of different nationalities, educations, trades, experience, creeds and temperaments would act as he might think he would have done or even - which may be quite different - in accordance with his concept of what a reasonable man would have done."

26. None of this, however, means that an adjudicator is required to take at face value an account of facts proffered by an appellant, no matter how contrary to common sense and experience of human behaviour the account may be. The decision maker is not expected to suspend his own judgment... In appropriate cases, he is entitled to find that an account of events is so far-fetched and contrary to reason as to be incapable of belief. The point was well put in the Awala case by Lord Brodie at paragraph 24 when he said this:

"... the tribunal of fact need not necessarily accept an applicant's account simply because it is not contradicted at the relevant hearing. The tribunal of fact is entitled to make reasonable findings based on implausibilities, common sense and rationality, and may reject evidence if it is not consistent with the probabilities affecting the case as a whole".

He then added a little later:

"... while a decision on credibility must be reached rationally, in doing so the decision maker is entitled to draw on his common sense and his ability, as a practical and informed person, to identify what is or is not plausible".

27. I agree. A decision maker is entitled to regard an account as incredible by such standards, but he must take care not to do so merely because it would not seem reasonable if it had happened in this country. In essence, he must look through the spectacles provided by the information he has about conditions in the country in question. That is, in effect, what Neuberger LJ was saying in the case of HK ..."
15. The Judge does not need to slavishly recite authorities as explained in EJA. The law was adequately summarised in [3].
16. The Judge does she need to recite every piece of evidence considered. She was plainly aware of the risk to Kolbars and the risk to Kurds found in possession of KDPI material as she identified that at [17]. Having identified that at the outset she was framing her findings as

against the background evidence in line with KB & AH. As there was no challenge to where the Appellant was from she did not need to recite the evidence of activity of Kolbar and the authorities in his area.

17. The Judge gave adequate reasons to explain why she did not accept that weight could be placed on the video and photographic evidence. The Judge does not have to hypothesize as to what else the video and pictures showed as she simply needed to make a finding on what it was not reasonably likely it did show which is what she did.
18. The fact an account is consistent within itself and with background evidence does not of itself mean it is credible. In not identifying any inconsistencies the Judge was plainly aware the account was consistent.
19. The Judge gave adequate reasons from [17-20] for finding that in this case the Appellant had failed to establish his case to the lower standard. The findings were rational and open to her. The fact that plausibility is referred to last in the non-exhaustive list identified in SB does not mean it is less relevant than the other factors identified. The Judge did not therefore fall foul of the guidance in HK or Y and gave sufficient clarity to be in accordance with OD.
20. There is therefore no material error of law in relation to Ground 1.
21. In relation to Ground 2, the Judge identified the sur place activity in [6] briefly “He also relies on sur place activities in the UK”. She gave much more in detail at [12-15];

“12. He joined Facebook when he arrived in the UK; he could not remember if it was before or after his claim was refused in March 2020. The appellant was asked who ‘Behnam Karamat’ was (this being the name of the Facebook account). He said it was him and it was his family surname. He said he was known as Behnam Karamat in Iran in shops. It was put to him that in his screening interview he had not said that he had used any other name or mentioned, when he went out, that he used the name Karamat. The appellant said he was not asked about it, but asked about his father’s and grandfather’s name and not the family name.

13. The appellant was asked if he knew how to change the settings on Facebook from public to private. He said it was public and everyone could see it. It was put to him that when the Facebook account was created, it would be on private and he would need to change it to make it public. The appellant said he did not have much knowledge of this as the account was created by someone else who had discussed the features with him; he said he wanted it so that everyone could see it. A friend of his had gone to a shop and asked the owner to open the account. He did not pay to open the account as his friend knew this person.

14. The appellant said he attended about six demonstrations in the UK. He had not arranged any events; during his attendance he said he said things against the regime and they were filmed. He was chanting with other people. He said they had banners/pictures of Iranian leaders. He could not remember the first date he attended, but the dates were on the Facebook posts. Regarding his inability to remember, but his ability to do so in his interview, he said the dates mentioned in the interview were about delivering goods; he had to make a note of them and when he was paid - but it had been a while since he attended a demonstration and he did not want to say a date if he was unsure. With reference to his statement, paragraph 23, saying he attended on 13 & 20 July and 8 September 2020, which

was five months after he made his statement, he was asked why he could not remember a single day that he had attended. He said he had a chart/date on his Facebook posts; he had gone through it with his representative; he could not remember them all when he made his statement. With reference to him saying the first demonstration was on 13/7/2021 in his statement, he said he had posted it on Facebook; it was around this time, but he was unsure. He said it must have been 13 July as he could not think of any day before that. All the demonstrations he attended were after March 2020; he had not attended any before, he said, as they were not arranged and he was not aware of any. He said he had always supported the Kurdish cause; he had not done so in Iran because of what would happen to him, but he could do it here.

15. For clarification, I referred the appellant to his asylum interview where he said he could not read and write much. I asked then how he had made his Facebook posts. He said he had not made all of them; some he had copied and some he had tried his best to write. He said he was not in contact with his family as the Iranian government were dangerous and it would put them in danger. Given he said his family name was Karamat and he had not contacted them, I asked if by using the name Karamat on his Facebook posts, it would put them at risk. He said he was worried if he was in touch with them as allegations may be made against them; the Facebook posts he was doing on his own and this would not put them in danger. Regarding whether working as a Kolbar and his Facebook posts put his family in danger, he said he did not think so as he was not committing any crimes.”

22. The Judge gave cogent reasons at [22] for finding that his attendance at the Iranian Embassy was “an attempt to bolster a false protection claim... the Iranian authorities cannot monitor all those who attend outside their embassy...There is no evidence to suggest if his attendance has been published in the UK media or Iran... he had no profile in attending...” The Judge gave cogent reasons for placing little weight on the Facebook activity in [23] in accordance with XX. The Judge gave adequate reasons at [24] for finding that he had failed to establish it was reasonably likely he had fled Iran illegally. At [25] the Judge identified the guidance contained within HB (Kurds) and applied it to the facts as found. On the facts as found the Judge was entitled to conclude that he “does not fall into any of the factors that would place him at heightened risk as a Kurd and consequently...he would not be at risk on return to Iran for any of the claimed reasons.”

23. Accordingly Ground 2 amounts to nothing more than a disagreement with findings the Judge was entitled to make on the evidence.

Notice of Decision

24. The Judge did not make a material error of law. The decision of the First-tier Tribunal shall stand.

Laurence Saffer

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

22 June 2023