

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49073 of 2021

Arising Out of PS. Case No.-115 Year-2021 Thana- RAXAUL District- East Champaran

Williams Rebecca @ William Rebecca D/O Christopher Paul William
Resident Of 1680, Central Street Claremont Ontario, Canada.

... .. Petitioner/s

Versus

1. The State Bihar
2. Union Of India Through The Secretary, Ministry Of External Affairs, Bureau Of Immigration Office Of Assistant Foreigner's Regional Registration Officer.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Shrishti Singh, Adv.
For the Opposite Party/s	:	Mr. Rajesh Kumar Verma (A.S.G.)
	:	Mr. Ramchandra Sahni (For State)

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 03-09-2021 Heard learned counsel for the petitioner, learned Additional Solicitor General, Mr. Rajesh Kumar Verma for the Union of India and learned A.P.P. for the State through virtual court proceedings.

Learned counsel for the petitioner undertakes to remove the defects within four weeks of resumption of normal court proceeding. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before the Bench.

The petitioner seeks bail in connection with Raxaul (Haraiya) P.S. Case No. 115 of 2021 registered for the offence punishable under Section 447 of the Indian Penal Code, Section



14(b) of the Foreigners Act, 1946 and Section 52 of the Disaster Management Act, 2005.

As per the prosecution case, one Canadian citizen bearing passport No. AB441327 entered into the country without an India Visa. It is alleged that even though the petitioner was stopped by the immigration officers, she boarded a bus that was headed to *Bettiah*. She got arrested by Ramgarvah Police Station and, subsequently, brought to the immigration office, Raxaul. On enquiry, it was revealed that she did not possess valid Indian Visa.

Learned counsel for the petitioner submits that petitioner has falsely been implicated in this case and has not committed any offence as alleged in the FIR. He submits that the petitioner was travelling from Canada to Nepal on a valid visa and inadvertently crossed into the Indian border, thereafter, on realizing that she had inadvertently travelled in the Indian Territory, the petitioner was taking steps to travel back to Nepal, however, the petitioner was detained by the AFRRO on 31.03.2021 itself and, thereafter, arrested by the Raxaul Police on 01.04.2021. He submits that the Apex Court has held that every trespass does not amount to criminal trespass within the meaning of Section 441 of Cr.P.C., and in order to satisfy the



conditions of Section 441 of Cr.P.C. it must be established that the accused entered in possession over the premises with intent to commit an offence. He further submits that charge sheet dated 27.05.2021 has been submitted against the petitioner under Section 14(b) of the Foreigners Act, Section 52 of the Disaster Management Act, 2005 and Section 447 of the Indian Penal Code. The allegation levelled against the petitioner is not specific rather general and omnibus in nature. The petitioner has no criminal antecedent and she is languishing in custody since 01.04.2021.

Learned counsel for the petitioner also submits that the petitioner is a foreign citizen, with no relatives based in the country, the requirement of surety be waived if the bail application is considered favourably. This is especially since her immediate relatives are also foreign citizens, not resident in the country. For this reliance is place on Section 441 of the Cr.P.C. and it is submitted that the petitioner may be released on personal bond, granting exemption from furnishing a surety.

Learned A.S.G., Mr. Rajesh Kumar Verma submitted that direction may be given to the petitioner to report in the High Commission of Canada, New Delhi after her release.

Considering the facts aforesaid, the above named



petitioner is directed to be enlarged on bail, on her personal bond of Rs. 25,000/- (Rupees Twenty Five Thousand) to the satisfaction of the learned court below where the case is pending/successor Court in connection with Raxaul (Haraiya) P.S. Case No. 115 of 2021 and further, she is directed to report in the High Commission of Canada, New Delhi after her release, thereafter, the O.P. No. 2 is directed to take appropriate steps.

(Anjani Kumar Sharan, J)

GAURAV S./-

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