

25.03.2021
Mithun
Sl. No.04.
D/L.
Ct.No.30.

CRM/797/2021

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with G.R. Case No.1385 of 2020 arising out of Liluah Police Station Case No.110 of 2020 dated 04.04.2020 under Sections 323/506 of the Indian Penal Code read with Section 14 of the Foreigners Act.

In the matter of : Falgun Roy

...the petitioner.

Mr.Mrityunjay Chatterjee, Adv.
Mr. S.Bhattacharyya, Adv.

... for the petitioner.

Mr.Binay Panda, Adv.,
Ms.Puspita Saha, Adv.

...for the State.

The instant application for bail on behalf of the petitioner is in the nature of renewal of the prayer for the second time. Initially in connection with CRM 5156 of 2020, the bail was rejected by the Division Bench of this Court, though the instant matter pertains to the determination of the Single Bench. However, the adjudication on the part of the Division Bench of this Court in respect of a determination of the Single Bench is irregular but not an illegality.

Learned Advocate for the petitioner has renewed the prayer for bail on two grounds. Firstly, on earlier occasion the

Division Bench refused to grant bail on the ground that the petitioner failed to produce any document in support of his stay in this Country prior to 2017. Before this Court the petitioner has filed certain documents standing in the name of his father to prove that his biological father is a citizen of India and accordingly, he is a citizen of this Country by birth. However, no birth certificate is produced by the petitioner even today.

The next limb of the argument on behalf of the petitioner is that he was arrested on 4th April, 2020. Charge-sheet was filed in the month of February, 2020. Petitioner filed an application under Section 167(2) of the Code of Criminal Procedure on 8th January, 2021 praying for statutory bail. But the learned Chief Judicial Magistrate, Howrah rejected the said prayer. Learned Advocate for the petitioner draws my attention to the order dated 10th February, 2021 when charge-sheet was produced before the learned Chief Judicial Magistrate and he took cognizance of offence.

It is further submitted by the learned Advocate for the petitioner that in order to get rid of the rigor of Section 167(2) of the Code of Criminal Procedure, the Investigating Officer put his signature in the charge-sheet on 31st December, 2020. The learned Advocate for the petitioner has produced an information slip from the G.R. Office of the learned Chief Judicial Magistrate, Howrah wherefrom it is ascertained that the charge-sheet filed before the learned Chief Judicial Magistrate on 20th January,

2021 i.e. after expiry of the statutory period. So he was entitled to get bail under Section 167(2) of the Code of Criminal Procedure.

The pertinent question that is to be questioned here is what will be the date of submission of charge-sheet - whether it is on the date when the Investigating Officer put his signature in the final report in the form of charge-sheet and sent the same to the concerned G.R.O. Office or the date when the G.R.O. received the charge-sheet or the date when the cognizance was taken by the learned Chief Judicial Magistrate on the basis of the charge-sheet.

The catch point that is to be considered here is as to whether the investigation is concluded within the statutory period or not. From the charge sheet it appears that the investigation was completed on 30th December, 2020. On completion of investigation charge-sheet was filed but it was not registered by the G.R.O. of the concerned Court. This does not mean that the petitioner is entitled to get the protection of Section 167(2) of the Code of Criminal Procedure.

In view of the above discussion, prayer for bail is heard, considered and rejected.

(Bibek Chaudhuri, J)