

26.03.2021
Mithun
Sl. No.03.
D/L.
Ct.No.30.

CRM/971/2021

In re: An application for bail under Section 439 of the Code of Criminal Procedure in connection with Thakurpukur Police Station Case No.253 of 2017 corresponding to ACGR No.4182 of 2017, under Section 466/468/471 of the Indian Penal Code, read with Section 12 of Passport Act and read with Section 14(a) Foreigners Act.

In the matter of : Shubhankar Roy.

...the petitioner.

Mr.Jaydeep Biswas, Adv.,
Mr. Soumyadeep Das, Adv.,
Mr. Kaushik Ghosh, Adv.

... for the petitioner.

Mr.Neguive Ahmed, Ld. A.P.P.
Md. Anwar Hossain, Adv.,

...for the State.

Having heard the learned Advocates for the petitioner and the learned P.P.-in-Charge and on perusal of the materials on record as well as the case diary, it is found indisputably that the petitioner is a Bangladeshi National. He came to India with a valid Visa and stayed in the territory of this Country even after the expiry of the Visa period.

It is submitted by the learned Advocate for the petitioner that the instant case was initiated on the basis of a complaint made by the wife of the petitioner because of marital discord.

It is also submitted by the learned Advocate for the petitioner that the petitioner is in custody for about three years six months and 14 days. In a case under Section 466/468/471 of the Indian Penal Code read with Section 12 of the Passport Act and Section 14 (a) of the Foreigners Act. The highest punishment prescribed for the offence is seven years. Since he is in custody for more than one half of the maximum period of imprisonment specified for the offence, he is entitled to bail. It is further submitted by the learned Advocate for the petitioner that the father of the petitioner was an Indian citizen. He married to a Bangladeshi National. In the said wedlock the petitioner was born. The petitioner completed his studies up to Class-X at Bangladesh. Thereafter he came to India for higher studies. He completed his Master Degree and PHD in English and used to work as a Professor of College. Considering such antecedent of the petitioner, he deserves to be released on bail.

Learned P.P.-in-Charge on the other hand submits that the petitioner tried to obtain an Indian Passport where he declared his academic qualification as Eight pass. The pass certificate of Secondary Education of the petitioner was seized by the Investigating Officer and on investigation it was found to be forged. The birth certificate was also found to be forged. The trial of the case was going on. Under such circumstances, if the petitioner is released on bail and if he fled away, trial will be hampered. Having heard the learned Counsel for the parties

and on perusal of the documents, it is found that this is a third time when the petitioner has prayed for bail. On all occasions, the petitioner completed different grounds for his bail. To illustrate, the order dated 10th November, 2017 passed in C.R.M. 11117 of 2017, it is found that the petitioner had come to India due to religious persecution entitling him to the beneficial protection. In the instant application it is stated by the petitioner that he came to India for higher studies. If the petitioner's academic qualification is claimed by him is treated to be correct, he suppressed his academic qualification for obtaining Passport. In order to protect himself from family dispute or marital discord, it was not required for him to take shelter of forgery. Proviso to Section 436 A empowers the Court to detain a person for a period longer than one-half of the maximum period of imprisonment for the reasons to be recorded by the Court.

I have already mentioned the specific reasons, which do not inspire me to grant bail to the petitioner at this stage before conclusion of trial. Therefore, the instant application for bail is rejected.

Case Diary be returned.

(Bibek Chaudhuri, J)