

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 741 OF 2021

James Francis Dicosta	... Applicant
Versus	
The State of Maharashtra	... Respondent

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Mr. Prashant Gurav, Advocate for the Applicant.
Mr. Y. M. Nakhwa, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : APRIL 26th, 2021.

P.C. :

The applicant is arrested on 24th October, 2020 in connection with C.R.No.607 of 2020, registered with Aarey Police Station, Mumbai, for the offences punishable under Sections 420, 465, 468 and 471 of Indian Penal Code ("IPC", for short). Subsequently, the investigation was transferred to SBI CID Branch. The offences were also registered under Section 3 read with 6 of the Passport Act read with Section 3(1)(a) of Foreign Order, 1948 read with Section 14 of the Foreigners Act, 1946.

2 The case of the prosecution is that on 19th December, 2020, the verification report was called by the Passport office since the applicant had preferred an application for passport. The

information was called from Aarey Police Station. Police visited the address given by the applicant. However, the house was closed and hence report was submitted to the Special Branch CID stating that the applicant is not staying at the place of residence. On 17th September, 2020, again the report was received for re verification by Aarey Police Station. The police again visited the place of residence mentioned by the applicant. The applicant was present. Inquiry about the residence of the applicant was made with the neighbours. They disclosed that the applicant is residing at the place since last 20 years. The premises is owned by him. On inquiry with the applicant about his native place, he could not give satisfactory explanation. He was directed to produce the documents relating to his date of birth, place of birth, identity proof etc. Applicant remained present before the police on 20th October, 2020, with documents, such as, renewal passport issued at Mumbai on 20th February, 2020, issued in his name, bearing details of place of birth, place of residence etc. Expired passport issued on 19th March, 2020, in the name of the applicant with other details. The applicant also produced transfer certificate of Junior High School District Nadia, West Bengal, certificate of birth issued in his name by Secrete Heart Church, Gazipur, Bangladesh. Voter identity card issued by Electoral Officer Malad

Assembly Constituency on 15th February, 2008, expired passport issued at Mumbai on 11th January, 1990. It is alleged that the applicant is the national of Bangladesh, and, hence, he was arrested. On completing investigation, charge - sheet is filed.

3 The applicant preferred application for bail before the Court of Additional Chief Metropolitan magistrate 8th Court, Mumbai, which was rejected on 7th January, 2021. Thereafter, the applicant preferred an application for bail before the Sessions Court, which is rejected on 18th January, 2021.

4 Learned advocate for the applicant submitted that the applicant is residing in India since last 20 years. His citizenship has been supported by the documents placed on record. The applicant has been issued Aadhar Card which appears his residential address of Mumbai. The applicant is also in possession of Pan Card and Voter ID card issued in 2008.

5 Learned APP submitted that the applicant is resident of Bangladesh. His place of birth is Bangladesh. If bail is granted to him, he would abscond.

6 The applicant is in custody for a period of about six months. The applicant has relied upon several documents. The

said documents are produced before the investigating officer. It appears that the documents indicate that since last 20 years, he is residing in India. It is not possible to give any finding at this stage that he is a citizen of India, however, keeping him in custody would serve no purpose. Hence, bail can be granted to him.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Criminal Bail Application No. 741 of 2021, is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R.No. 607 of 2020, registered with Aarey Police Station, Mumbai on executing P.R. Bond in the sum of Rs.25,000/- with one or more local sureties in the like amount;
- (iii) The applicant shall report Aarey Police Station, Mumbai, once in a month on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;

- (iv) The applicant shall furnish the details of his residence after he is released on bail to the Investigating Officer;
- (v) The applicant shall attend Trial Court regularly on the date of hearing of the case unless exempted by the Court for some reason;
- (vi) The applicant is permitted to furnish provisional cash bail security in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety;
- (vii) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)