

25.03.2022

Sl. No. 5.
Mithun
Ct.No.42.

CRM (SB)/39/2022

(Via Video Conference)

In re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Swarupnagar Police Station Case No.163/22 dated 24th February, 2022 under Section 14 of the Foreigners Act, 1946, corresponding to G.R. Case No.693 of 2022 pending before the Court of learned Additional Chief Judicial Magistrate at Basirhat, District- North 24-Parganas.

In the matter of : **Palash Shil.**

...petitioner.

Mr Somnath Ganguly, Adv
Ms Sijita Niyogi, Adv.
Mr. Supratic Shyamal, Adv.
Mr. Anirban Tribedi, Adv.

...for the petitioner.

Mr. P.K.Datta, APP,
Mr Santanu Deb Roy, Adv.

...for the State.

The petitioner claims to be a French national. He also claims that he traveled on the basis of a valid visa to India during the period from 13th January, 2022 and the visa is scheduled to be expired on 9th April, 2022. It is also claimed that he used to reside at Bongaon in the house of a relative. Subsequently, on 24th February, 2022 he was intercepted by BSF personnel with a false allegation that he was trying to cross the International Boarder of Bangladesh and India to enter into the territory of Indian Republic. The Investigating Officer of this case was directed to obtain a report from the proper authority

regarding the authenticity of passport of the petitioner. The Investigating Officer has submitted a report that the concerned authority being the Deputy Consulate of the French Consulate in India has not submitted any report with regard to authenticity of the passport of the petitioner. However, it is ascertained from the passport of the petitioner that he was originally a Bangladeshi national and obtained refugee status in France on his representation that he would be persecuted in Bangladesh. It is true that he had valid visa for his travel to India on and from 13th January, 2022 which will expire on 9th April, 2022.

At this stage of proceeding the claim of the Investigating Authority is that he entered into Bangladesh and while returning from Bangladesh to India, he was apprehended with others on 24th February, 2022. It is needless to say that as soon as a refugee enters into his own Country, the passport issued by the Republic of France loses its refugee status in France. In support of my observation an order passed by the Division Bench of this Court in CRM 1690 of 2020 (in the matter of Asad Ahmed dated 15th September, 2022) may be relied on.

Considering such aspect of the matter and in view of the fact as to whether the petitioner illegally entered into the Bangladesh territory or not or he tried to cross the International boarder of Bangladesh and India or not on 24th February, 2022

are questions of fact which are to be decided on the basis of evidence on record.

Prima facie I do not find any reason to release the accused on bail. Therefore, prayer for bail is refused.

(Bibek Chaudhuri, J.)