

25.04.2022
Item No.06
Suman
Ct.42

CRM (SB) 64 of 2022

In Re: An application under Section 439 of the Code of Criminal Procedure in connection with Gobordanga Police Station Case No. 239 of 2020 dated 18.09.2020 under Sections 420/406 of the Indian Penal Code and Section 14 of the Foreigners Act.

And

In the matter of: **Debu Debnath**
 Vs.
 The State of West Bengal

Mr. Tarun Jyoti Tewari
...for the petitioner

Ms. Faria Hossain
Mr. Anand Keshari
...for the State

Investigation of Gobordanga Police Station Case No.239 of 2020 culminates to filing of the charge sheet against the petitioner under Sections 420/406 of the Indian Penal Code and Section 14 of the Foreigners Act. Since charge sheet has been submitted and the date of trial has already been fixed, this Court finds that further detention of the petitioner is not necessary in connection with the offence under Sections 420/406 of the Indian Penal Code and Section 14 of the Foreigners Act. In order

to bring the petitioner for committing offence under Section 14 of the Foreigners Act, his voter's identity card was cancelled without following the provisions of Section 22 of the Representation of the People's Act, 1950. All other documents stand in the name of the petitioner. Therefore, he has prayed for bail of the petitioner.

The learned P.P.-in-charge, on the other hand, submits that the petitioner has filed voter's identity card, Aadhar Card, PAN Card and Ration Card to prove his citizenship. So far as the voter's card is concerned, it was cancelled. Authenticity of the Aadhaar Card and PAN Card cannot be established. Ration Card was found to be genuine but it was cancelled again without giving an opportunity to the petitioner of hearing. It is needless to say that in the State of West Bengal there is no tribunal for determination of citizenship of a person. The Court can give judicial notice of the fact that the State Government is against establishment of such tribunal where the question as to whether a person is a citizen or not might be adjudicated. Therefore, the Court has no other alternative but to rely on voter's identity card, PAN Card, Aadhaar Card etc. for determination of citizenship of a person, though the Court is absolutely aware that none of the documents

can strictly be held to be the proof of citizen because voter's identity card can be procured or issued to a person even in a case where he is not a citizen of this country on certain persuasion from the interested pressure group. Aadhaar card is essentially issued to ascertain a person's financial condition, bank account etc. PAN Card is exclusively for assessment of income tax. Ration Card is for getting essential commodities at Government rate. Therefore, the said documents cannot be strictly stated to be the proof of citizenship. However, cumulative effect of all these documents leads a Court to hold a person as a citizen of this country.

It is not disputed that the voter's identity card and the ration card of the accused were cancelled pending investigation of this case. The learned advocate for the petitioner has submitted documents from the website of UIDAI, Government of India wherefrom authenticity of the Aadhaar Card can be verified and the said document suggests that the Aadhaar Card of the petitioner is genuine. The petitioner also does not know why his ration card is cancelled.

Considering all such aspect of the matter, this Court is of the view that the petitioner should be enlarged on bail.

The petitioner is enlarged on bail of Rs.10,000/- with one surety to the satisfaction of the learned Chief Judicial Magistrate, Barasat with further condition that the petitioner shall attend the trial of the case regularly before the 2nd Court of the learned Judicial Magistrate at Barasat.

The application is, thus, disposed of.

(Bibek Chaudhuri, J.)