

01.03.2022

COURT : 01
ITEM : 17
MATTER : 439
STATUS : REJECTED
TRANSCRIBER : nandy

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

CRM (DB) 33 of 2022

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed on January 27, 2022 in connection with Bhaktinagar Police Station Case No. 721 of 2019 dated 13.09.2019 under Sections 4/14(B) of the Foreigners Act.(G.R. Case No.3765 of 2019)

And

In the matter of : **Tapash Barman**

...Petitioner

Ms. Jeenia Rudra, Advocate

...for the Petitioner

Mr. Arun Sarkar, Advocate

Mr. Saikat Chatterjee, Advocate

...for the State

The petitioner is seeking bail in connection with Bhaktinagar Police Station Case No. 721 of 2019 dated 13.09.2019 under Sections 4/14(B) of the Foreigners Act.

This is second application for bail at the behest of the petitioner. The earlier application being CRM 476 of 2021 was dismissed by this Court on April 29, 2021. It appears from the said order that despite the investigation having been completed within the statutory period and chargesheet was submitted, the Court did not find any materials justifying the release of the petitioner on bail. The instant case is under the Foreigners' Act and the nationality of the petitioner is a matter of serious concern. Though the learned Advocate for the petitioner submits that the petitioner has Indian origin and relies upon a photocopy of the purported AADHAR Card and Electricity Bill standing in the name of the father of the petitioner, but since the chargesheet has already been submitted and there is every possibility of the trial to commence in near future, such documents which are now shown in the instant bail application may be used as one of the evidence in order to rule out the allegation pertaining to the nationality of the petitioner.

Even though chargesheet has been filed, we are given to understand that there is no progress in the trial. It further appears that despite the direction passed by this Court on April 29, 2021 in CRM 476 of 2021 to conclude the trial within two months, no progress has been shown. There has been a lackadaisical attitude shown by the concerned Court in not adhering to the direction of this Court which we cannot accept. However, since the Judicial Officer is not before us and without sermonizing him in his absence, we expect that the direction of the High Court must be obeyed, respected and complied in full letter and spirit. Equally, the role of the prosecution is important as without their assistance and support no trial can reach to its logical conclusion.

We, therefore, direct the learned trial Judge to conclude the trial within two months from the date of communication of this order. Simultaneously, we also direct the prosecution to produce the witnesses on a day fixed by the trial Court and shall not ask for any adjournment unless on unavoidable and unforeseen circumstances.

In view of the above, the prayer for bail is **rejected**.

The application being **CRM (DB) 33 of 2022** is thus **dismissed**.

(Harish Tandon, J)

(Rabindranath Samanta, J)