

28.02.2022
Court No.01
Item No. 10
Saswata
(rejected)

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

**CRM 1265 of 2021
(Via Video Conference)**

In Re:- An application for bail under section 439 of the Code of Criminal Procedure filed in connection with Sahebganj Police Station Case No. 463 of 2021 dated 14.09.201 under Section 14A of the Foreigners Act.

And

In Re: **Md. Reajul Islam @ Md. Riyajul Islam @ Md. Rijaul Islam**
Petitioner

Mr. Sayan De
Ms. Esha Acharya

For the Petitioner

Mr. Aditi Sankar Chakraborty, APP
Mr. Biswarup Roy

For the State

The petitioner has filed the instant application for bail being in custody for 167 days, as of today under Section 14A of the Foreigners Act. The identification of the petitioner was disputed and police could not comprehend in absence of sufficient proof showing his nationality of India. Subsequently, the photocopies of the aadhar card, voter card and other relevant documents were produced through the counsel appearing for the petitioner and the Court on 11/01/2022 directed the Investigating Officer to submit a report as regards the authenticity of the voter's identity card, PAN card, aadhar card and driving license.

Today, the report is filed containing a letter issued by the Government of India, Ministry of Electronic and Information Technology indicating that the sharing of an information, pertaining to the identification of a person is restricted under Section 33 of the Aadhar Act, 2009 and the subsequent

amendments having made therein. It says that unless a High Court or the Supreme Court passes a direction after giving an opportunity of hearing to UIDAI and the concerned Aadhar holder, it would not be possible to reveal such information.

Now, the dispute pertains to the production of the originals of those documents. According to the learned advocate for the petitioner, the originals were seized by the Investigating Officer, which has been disputed by the learned advocate for the State. We have also perused the case diary and the charge sheet filed in connection with the aforementioned case. Our endeavour has failed to find any such document seized by the Investigating Officer.

In view of the stand of the aforesaid Ministry, and the fact that the charge sheet has already been submitted, we feel that we should not detain ourselves in deciding any further issue, more particularly, where it is a specific stand of the petitioner that the originals of such documents have been seized by the Investigating Officer which is seriously disputed by the State.

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

However, we request the learned Judge in the Trial Court to expedite the trial of the case.

The application for bail being CRM 1265 of 2021 is accordingly dismissed.

(Harish Tandon, J)

(Rabindranath Samanta, J)