



Crl.O.P.No.23910 of 2022

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A.D.JAGADISH CHANDIRA, J.

The petitioner, who was arrested and remanded to judicial custody on 07.09.2021 for the alleged offences punishable under Sections 14, 3(2)(a) & 3(2)(c) of Foreigners Act, 1946 in Crime No.944 of 2021, seeks bail.

2. The case of the prosecution is that on 07.09.2021 at about 08.30 hours, when the respondent Police was on patrol duty at Avinashi to Mangalam Road, the accused on seeing them tried to escape but they were secured by the respondent. During enquiry, it came to know that the accused are the natives of Bangladesh, who had illegally come to India through West Bengal one year before and joined as a Tailor in the company belonging to one Mamun Haldar at Tiruppur. Based on which, a case in Crime No.944 of 2021 was registered under Sections 14 A(b) r/w 3(2)(a), 3(2)(c) of Foreigners Act, 1946, against the accused on 07.09.2021.



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3. The learned counsel appearing for the petitioner would submit that the petitioner is an Indian citizen, born in Jalpaiguri, West Bengal in the year 1998, for which the birth certificate was also issued by the Department of Health & Family Welfare, Grama Panchayat, Dabgram-II. The learned counsel has also produced the copy of the alleged birth certificate stated to be issued by the Sub-Registrar, Grama Panchayat Dabgram-II. She would further submit that the petitioner is in custody from 07.09.2021 and he is ready to abide by any stringent conditions that may be imposed by this Court. Hence, she prays for grant of bail to the petitioner.

4. This Court had directed the respondent to verify about the veracity of the birth certificate produced by the learned counsel for the petitioner. The respondent after verifying the said document has filed a detailed counter. The relevant paragraphs are extracted hereunder:-

"10. It is submitted that during the earlier hearing, since it was represented that the petitioner/accused Jakkir Hussain is working as



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labour at Tiruppur and he has been illegally staying without passport and visa and other required documents, this Hon'ble Court directed the respondent to find out the native address details and verify the genuineness of the same. It is submitted that the petitioner has produced the Birth Certificate dated 14.08.2019 issued by Pradhan Grama Panchayat Dabgram and claims that he is a native of West Bengal. Since there are certain discrepancies in the certificate produced by the petitioner/accused, this Hon'ble Court directed the respondent to verify the genuineness of the same.

11. It is submitted that in pursuant to the order of this Hon'ble Court the respondent vide letter dated 12.10.2022 through E-mail has addressed to the Inspector of Police, Bhakti Nagar Police Station, West Bengal Sate to get the genuineness certificate from the Prodhan/issuing authority, Sub Registrar, (Birth & Death), Grama Panchayat, Dabgram-II. The respondent police received the reply letter vide Memo.No.320/Dab-II, G.P/2022, dated



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12.10.2022 addressed to the Office in Charge, Ashighar Out Post, Under Bhakti Nagar Police Station, Silliguri Police Commissionerate, wherein it was informed that the Birth Certificate of the accused/petitioner herein, Jakkir Hussain, S/o.Mohorruddin of East Chayanpara, P.O-Ghogoma District Jaolpoiguri having registration No.-2019:19-00034-002575, dated 14.08.2019, which is not a genuine document and not issued by the above office.

12. It is further submitted that the petitioner/accused stayed illegally without any valid passport and visa in contravention to provisions of u/s. ws.14 A (b) r/w. 3 (2) (a). 3 (2) (c) of Foreigners Act, 1946 and if the petitioner/accused is granted bail, there is every possibility of the accused being absconding as he is native of Bangladesh and that it would be difficult for the trial Court to further proceed with the case. The fact remains that the trial of the case in S.C.No.161 of 2022 on the file of the Principal District cum Sessions Judge, Tiruppur is completed and now stands posted for



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pronouncement of judgment on 04.11.2022. It would hinder the further progress of the above case."

5. Despite, filing of the counter by the respondent, Ms.Nivedita, learned counsel for the petitioner, was adamant and she insisted that the birth certificate furnished by the petitioner is a genuine one and she wanted to conduct a mini trial. Since she being a junior counsel, this Court in order to convince her, had directed the learned Government Advocate (Crl.Side) to scan the QR code which was found in the copy of the birth certificate produced by the learned counsel for the petitioner and it was found that the reading of the QR code lead to a fake website and thereby, reflecting that there is also yet another scam done by some persons indulging in fabrication of birth certificates, in respect of which separate investigation has to be done by the concerned Governments.

6. The learned Government Advocate (Crl.Side) would submit that the case is now at the fag end of trial and all the witnesses have been examined, arguments are over and the case now stands posted for



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delivering the judgment. He would further submit that if the bail is granted to the petitioner at this stage, there is every possibility for him to abscond and he will not be available for further proceedings. Hence, he vehemently opposed to grant bail to the petitioner.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the materials available on record.

8. Taking into consideration the facts and circumstances of the case and *prima facie* finding that the alleged birth certificate produced by the learned counsel for the petitioner before this Court is a fake one, this Court is not inclined to grant bail to the petitioner.

9. Accordingly, this Criminal Original Petition stands dismissed.

02.11.2022

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Note : Issue order copy on 09.11.2022

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