

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

**12.04.2023**  
**Court No.1**  
**(D/L 22)**  
**(allowed)**

**CRM (DB) 152 OF 2023**

In Re: An application for bail under Section 439 of the Code of Criminal Procedure, 1973 filed on 30.03.2023 in connection with Kuchlibari Police Station Case No.141 of 2022 dated 07.11.2022 under Sections 14 A and 14 C of the Foreigners Act, 1946.

And

In the matter of: **Biswajit Roy @ Mithun Roy**

**... Petitioner.**

Mr. Dipankar Deb

... for the petitioner.

Mr. Aditi Shankar Chakraborty, APP

Mr. Biswarup Roy

... for the State.

In the present case charge-sheet has been submitted under Sections 14A/14C of the Foreigners Act. The said Sections are contrary to each other . The investigating officer without taking the trouble of putting specific Section against the accused has clubbed together two contrary Sections, which will not only create difficulty during investigation but also during trial.

The learned public prosecutor is to ensure by taking up the matter with the police authorities to see that the charge-sheets are submitted as per the material on record against specific Sections and not to club together Sections which are contrary to each other just to make their work easier.

In the present case a supplementary affidavit has been filed by the petitioner along with copies of documents which prima facie show that the petitioner is an Indian citizen. Another co-accused Manju Biswas is on bail.

Considering the materials on record the nature of the case and the period of detention, we are inclined to grant bail to the petitioner. Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.20,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned ACJM, Mathabhanga, subject to the further conditions that the petitioner while on bail shall remain within the jurisdiction of district Jalpaiguri and shall appear before the trial Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to appear before the trial Court without justifiable cause, the trial Court shall be at liberty to cancel his bail automatically without further reference to this Court.

The application for bail is, accordingly, allowed.

**[SHAMPA DUTT (PAUL), J.]**

**(RAJARSHI BHARADWAJ, J.)**