

02.05.2023
KC (8)

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CRIMINAL MISCELLANEOUS JURISDICTION

C.R.M.(DB) 172 of 2023

In the Matter of : Dmytro Borkovets

.... petitioner.

Mr. Subhasish Misra.....For the petitioner.

Mr. Ujjwal Luksom

Mr. Sourav Ganguly.....For the State.

This is an application for grant of bail filed under Section 439 of the Code of Criminal Procedure, 1973 in connection with NCBR GRPS Case No. 13 of 2022 dated 23rd August, 2022 corresponding to Session Case No. 104 of 2022 (S.T. No. 04(01) of 2023) pending before the court of learned Additional Session Judge, First Tract Court, Cooch Behar.

The accusation against the petitioner is under Section 14A(b) of Foreigners Act, 1946.

Learned counsel for the petitioner contends that a case against him was started by the Jaipur police arising out of F.I.R. No. 52 of 2020 registered at Police Station SOG, District ATS & SOG, Jaipur. The petitioner was accused under Sections 8/20, 8/22 of the NDPS Act, 1985 read with Section 3 of the Passport (Entry Into India) Act, 1920 and

Section 14 of the Foreigners Act. On 27th November, 2020 he was granted bail by the Jaipur bench of the Rajasthan High Court.

Learned counsel for the petitioner submits that his client cannot be tried for the same offence twice and he should be released on bail.

In our determination over bail matters, the validity of the proceedings is not under consideration. The consideration before us is only whether the petitioner should be granted bail. Whether the present proceedings is valid or not has to be tested by the petitioner in some other jurisdiction.

But considering the fact that the Rajasthan High Court has granted bail to the petitioner and the admitted case is that the petitioner has a valid passport but not the visa to stay in India, we direct that the petitioner be released on bail on the following conditions:

The petitioner will be enlarged on bail upon furnishing a bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Sessions Judge, First Track Court, Cooch Behar.

Learned counsel for the petitioner submits that his original passport is deposited with the Rajasthan police. The investigating officer will satisfy himself about the truth of this statement and if it is found to be true he shall not insist

on deposit of the passport with him but shall only keep a photocopy of the same for his records. Further conditions are:

1. He shall report before the investigating officer once in two weeks,
2. The petitioner shall not leave the limits of the district Cooch Behar without informing the I.C.,
3. He shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.
4. The petitioner shall attend the court on each and every day of trial, in default, the court shall be at liberty to cancel the bail bond without any reference to this bench.

The application for bail [CRM (DB) 172 of 2023] is, accordingly, disposed of.

(I.P. MUKERJI, J.)

(ANANYA BANDYOPADHYAY, J.)

