

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

06.01.2023
Court No.1
Item. 05
(Suvendu)

CRM(DB) 384 OF 2022

In Re: An application for Bail under Section 439 of the Code of Criminal Procedure, 1973 filed in connection with Sahebganj Police Station Case No. 69 of 2021 dated 03.03.2021 under Section 14A/14C of the Foreigners Act.

And

In the matter of: Nasir Khan & Anr.

.Petitioners.

Mr. Sudip Guha

For the Petitioner.

Mr. Aditi Shankar Chakraborty
Mr. Biswarup Roy

For the State.

The petitioners were arrested on 3rd March, 2021 on a complaint made by the BSF and on the charge of being foreign nationals. The petitioners have been in custody since then.

A Coordinate Bench by an order dated 9th November, 2022 directed the Investigating officer to file a Report. The direction was reiterated on 28th November, 2022 and on 2nd January, 2023.

The Investigating Officer is personally present in Court today.

The Report placed before us does not indicate either the basis of holding the petitioners to be Bangladeshi nationals or any proper investigation made in this regard. We are of the opinion that the investigation is not only *ex facie* improper but also that there has been an undisputed delay in the progress of the case.

We are hence persuaded to release the petitioners on bail.

We accordingly direct that the petitioners shall be released on bail upon furnishing a bond of Rs. 10,000/- (Rupees ten thousand only) each with two sureties of like amount each, one of who must be local, to the satisfaction of the learned Assistant Sessions Judge, Dinhata. The petitioners shall not induce witnesses or influence them or tamper with the evidence. The petitioners shall also make themselves available for the trial and to the Investigating Officer as and when the petitioners are required and shall also not leave the jurisdiction of the concerned police station without leave of the concerned authorities.

The documents seized by the prosecution from the petitioners in the matter shall be returned to the petitioners within 24 hours from today.

CRM(DB) 384 of 2022 is accordingly allowed and disposed of in terms of the above.

(SIDDHARTHA ROY CHOWDHURY,J.) (MOUSHUMI BHATTACHARYA,J.)

