

04.12.2023

Sl. No.1

akd

[ALLOWED]

IN THE HIGH COURT AT CALCUTTA

Circuit Bench at Jalpaiguri

C. R. M. (DB) 657 of 2023

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 01.11.2023 in connection with Kharibari Police Station Case No.371 of 2022 dated 26.11.2022 under Sections 14A/14C of the Foreigners Act. (G.R. Case No.5160 of 2022)

And

In Re: **Andrew James King**

... .. Petitioner

Mr. Dhiraj Lakhotia
Ms. Radhika Agarwal
Ms. Meghana Joshi

... .. for the petitioner

Mr. Aditi Shankar Chakraborty .. Id. Addl. Public Prosecutor
Mr. Biswarup Roy

... .. for the State

1. Petitioner had been granted statutory bail. After the passing of the bail order, police report was filed. Presently, the learned Sessions Judge has declined to accept the bail bonds and release the petitioner. Accordingly, he prays for appropriate direction to be released on bail.
2. Learned Advocate for the State submits police report has been filed in the meantime.
3. We have considered the rival submissions at the Bar. Petitioner has availed his right to statutory bail prior to filing of the police report. In view of the law declared by the Constitution Bench of the Hon'ble Apex Court in **Sanjay Dutt vs. State Through CBI, Bombay (II)**¹ reiterated in **M. Ravindran vs. Intelligence Officer,**

¹ (1994) 5 SCC 410

Directorate of Revenue Intelligence², once an accused has availed statutory bail and the same is granted prior to the submission of the police report, the right is not stultified by filing of police report at a subsequent date. Furnishing of a bail bond is a consequential act which is of little relevance to the fruition of such right³. Accordingly, we are inclined to enlarge the petitioner on bail.

4. Therefore, the accused/petitioner, namely **Andrew James King**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Siliguri, Darjeeling subject to condition that the said petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.
5. In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.
6. The application for bail, thus, stands allowed.

(Apurba Sinha Ray, J.)

(Joymalya Bagchi, J.)

² (2021) 2 SCC 485

³ Raghubir Singh & Ors. vs. State of Bihar, (1986) 4 SCC 481

