

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21207 of 2024

Arising Out of PS. Case No.-352 Year-2023 Thana- RAXAUL District- East Champaran

1. Jhao Jing (Male), aged about 39 years, Son of Zhao Xioa Ping, resident of Jiangxi, Country People's Republic of China, Passport No. EJ9445927.
2. Fu Cong (Male), aged about 29 years, Son of Fu Hong Gen, resident of Jiangxi, Country People's Republic of China, Passport No. Ek5643259.

... .. Petitioners

Versus

1. The State of Bihar through its Chief Secretary, Bihar.
2. The State of Bihar through Principal Secretary, Department of Home Affairs, Bihar.
3. The Director General of Police (D.G.P.), Govt. of Bihar, Patna.
4. Superintendent of Police (S.P.), East Champaran, Motihari. Bihar.
5. Bureau of Immigration, Govt. of India. Delhi

... .. Opposite Parties

Appearance :

For the Petitioners	:	M/S. R.P. Luthra, Rakesh Kumar Singh, Vibhuti Kumar and Amit Kumar, Advocates.
For the U.O.I.	:	Mr. Arun Kumar Satyamurti, C.G.C. and Mr. Chandra Prakash Singh, Advocate
For the State	:	Mr. Kumar Ranjit Ranjan, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 15-07-2024 Heard learned counsel for the petitioners, learned counsel for the Union of India and learned A.P.P. for the State.

2. The petitioners seek bail in connection with Trial No. 1629 of 2023, arising out of Raxaul (Haraiya) P.S. Case No. 352 of 2023 dated 22.07.2023 registered for the offences punishable under Section 3 of The Passport (Entry into India) Act, 1920 and 14(b) of the Foreigners Act.

3. As per the prosecution case, one Suresh Kumar



Singh (AFRRO, ICP Raxaul), in his written report, has alleged that on 22.07.2023 at about 20.45 hours, the petitioners were apprehended in front of the Indian Custom Office by the officials of the Indian Immigration while they were entering India from Nepal. They have been brought to the Office of the Immigration for checking and it was found that both the petitioners who are the Chinese citizens did not have any valid passport and visa. It is further alleged that the petitioners were earlier also apprehended on 02.07.2023 while unauthorisedly entering India from Nepal without the Indian Visa by the Immigration Authorities and send back to Nepal after giving warning to them as it was their first case of crossing boarder, mentioning in their passport “entry refused” and advised to come to India with the Indian Visa. It is further alleged that the petitioners were entering India again unauthorisedly without passport and Visa which suggested that their intention was wrong. Thereafter, the petitioners were handed over to Raxaul Police Station (Haraiya O.P.) for legal action. One Production-cum-Seizure List has been prepared by the S.H.O., Haraiya O.P. Raxaul, showing recovery of Chinese I.D. Card, Mobile Phones and cash in Nepali Currency and Indian Currency from the petitioners.



4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. It is submitted that the charge sheet has been submitted in the present case on 17.09.2023 vide Charge Sheet No. 277 of 2023 in which the learned court below has taken cognizance for the offences punishable under Section 3 of The Passport (Entry into India) Act, 1920 alongwith Section 14(b) of the Foreigners Act, 1946 against the petitioners. Thereafter, the charges have been framed under Section 14-A(b) of the Foreigners Act, 1946 and under Section 3 of The Passport (Entry into India) Act, 1920. It is further submitted that from perusal of the F.I.R., it appears that the petitioners have been intercepted by the Indian Immigration Officers in front of the Indian Custom Office, which apparently vindicates the petitioners' bonafide intent to enter India for procuring a proper Indian Visa though their earlier attempt to enter the Indian Territory on 02.07.2023 was refused by making an endorsement on their passport of "Entry Refused" by stating them to enter India with proper valid Indian Visa. It is further submitted that mere attempt to enter the Territory of India does not constitute commission of the alleged offence. It is further submitted that the petitioners have not been arrested from the Indian Territory



as their valid Visa was of Nepal and they were walking on 'no man's land' for which there is no requirement of separate Visa. There is no strong suspicion against the petitioners. Learned counsel for the petitioners has further submitted that the trial is without jurisdiction. The petitioners have clean antecedent as stated in paragraph no. 3 of the bail petition. They are in custody in this case since 22.07.2023.

5. Learned Central Government Counsel for the Union of India as well as learned A.P.P. for the State have vehemently opposed the bail petition of the petitioners and have further submitted that in spite of warning given to the petitioners, they being Chinese National entered the Indian Territory unauthorisedly without any passport or Indian Visa which shows that there are strong suspicion against them as to commission of the offence under Section 14A(b) of the Foreigners Act. The Indian currencies were also recovered from their possession. The trial of this case has already been commenced and there are six charge-sheeted witnesses out of which three witnesses have been examined by the prosecution. There is strong possibility of their absconding.

6. Considering the aforesaid facts and circumstances of the case as well as the seriousness of the allegation against



the petitioners, this Court is not inclined to grant bail to the petitioners and the same is rejected in connection with Raxaul (Haraiya) P.S. Case No. 352 of 2023, pending in the court of learned J.M. Ist Class, Raxaul at Motihari, East Champaran.

7. The bail application of the petitioners stands rejected.

8. The learned trial court is directed to expedite the trial of the case and conclude the same preferably within a period of four months from the receipt of this order to the concerning court.

(Chandra Prakash Singh, J)

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