

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54647 of 2024

Arising Out of PS. Case No.-146 Year-2024 Thana- RAXAUL District- East Champaran

Gulam Gaus, Son of Late Abdul Jabbar Sah, Resident of Ramnagar Sirauli,
Ward No.- 8, P.S.- Riga, District- Sitamarhi, At present address- Malangwa,
Ward No.- 3, Sarlahi, Nepal.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sumit Kumar, Advocate
For the Opposite Party/s : Dr. Indihar Kumari, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 14-08-2024 Heard Mr. Sumit Kumar, learned Advocate for the
petitioner and learned APP for the State.

2. The petitioner seeks regular bail, who is in judicial custody in connection with Raxaul (Haraiya) P.S. Case No. 146 of 2024 registered for the offences punishable under Sections 419, 420 of the Indian Penal Code, Section 12(1A) of the Passport Act, 1967 and Section 17 of the Citizen Amendment Act, 1955.

3. The F.I.R. has been instituted by an Assistant Foreigner's Regional Registration Officer, Immigration Check Post, Raxaul, East Champaran, alleging therein that while the petitioner was entering India from Nepal through Nepal-Raxaul Border, he was intercepted by Immigration officials and brought



to Immigration Office for verification of his papers. On search, Indian Aadhar Card, PAN Card, driving license and one ATM Card have been recovered. On query and after verification through his mobile it was found that the petitioner is a Nepali citizen, but having copy of Indian Passport, Nepali Passport and paper of Nepali Citizenship have been recovered. The petitioner was having two address one at Ramnagara, Sarauli, Sitamarhi, Bihar and another Malangwa, Ward No.3, Sarlahi, Nepal. In the aforesaid premise, on being found that the petitioner has fraudulently obtained citizenship of both India and Nepal, the resultant F.I.R. has been lodged.

4. Learned Advocate for the petitioner contended that the petitioner is a daily wage worker and on being married in Nepal started residing there with his wife. In the period spent in Nepal, he acquired Passport and Nepali citizenship and other documents, but later on due to marital discord, he left Nepal and returned to his native place at Sitamarhi in India. Being, a daily wage worker, unaware regarding citizenship law, he was possessing dual citizenship but it was not done with any malicious intent. Referring to Section 12(1A) of the Passports Act, 1967, learned Advocate for the petitioner contended that the same would only be attracted where a person not being a



citizen of India makes an application for a passport or obtains a passport by suppressing information about his nationality. However, it is the fact that while he was residing in India, he had obtained the passport without making suppression of any fact and, as such, there is no applicability of Section constituting the offence.

5. It is next contended that Section 17 of the Citizenship Act, 1955 has also no role to play in the present case, as the same would come into picture when any person for the purpose of procuring anything to be done or not to be done under this Act, knowingly makes any representation which is false in a material particular. Moreover, mere recovery of the documents as alleged in the F.I.R., per se, does not constitute any offence under Sections 419 and 420 of the Indian Penal Code, unless there is material to suggest the same was procured to use or intended to be used for the purpose of cheating. The petitioner is a man of fair antecedent and he undertakes that he will fully cooperate in the investigation of the crime or in the proceeding of the court. Moreover, the investigation of the crime is complete and the charge-sheet has been submitted.

6. Learned Advocate for the State vehemently opposes the bail application and submits that procuring the citizenship of



both India and Nepal by making a false and incorrect statement, prima facie, constitute an offence under the Citizenship Act, 1955 as well as Passport Act, 1967; and the plea of the petitioner, he was not aware of the Penal consequences, is not acceptable.

7. Regard being had to the submissions made on behalf of the parties and considering the fiduciary relationship of India and Nepal where the citizens of both the country comfortably moves from one country to another and settled for the purposes of marriage and business, apart from the fact that there is no other allegation that on the basis of the papers/documents recovered, the petitioner has tried to obtain any benefits, coupled with the fair antecedent and the completion of investigation, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Motihari in connection with Raxaul (Haraiya) P.S. Case No. 146 of 2024, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner shall produce documents in relation



to his permanent residence along with two mobile numbers, out of which one shall be of his close family member and another of the petitioner.

(ii) The petitioner will cooperate in conclusion of the trial.

(iii) He will remain present on each and every date of trial till disposal of the case.

(iv) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(v) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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