

September 13, 2024

4 ARDR

Allowed

CRM(SB) 106 of 2024

In Re : An Application for bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (formerly known as Section 439 of the Cr. P.C) filed in connection with **Bagdah** Police Station Case No. 126 of 2024 dated 08/02/2024 under Section 14 of the Foreigners Act, 1946 pending before the learned Judicial Magistrate, 1st Class at Bongaon, North 24 Parganas.

And

In Re : Abdol Salam Bavar alias Abdol Salam,
... Petitioner.

Adv. Susnigdho Bhattacharyya,
Adv. Gaurav Rohilla (through VC),
... For the Petitioner.

Adv. Adil Badr,
Adv. MFA Begg,
... For the State.

Report submitted by the learned Registrar General, High Court, Calcutta, is taken on record.

Heard learned counsels for the parties.

It appears from the report that the passport of the petitioner has been impounded by the learned Judicial Magistrate, 1st Class-02, Patiyala House Courts, New Delhi, Police Station Basantkunj, North.

Learned counsel for the petitioner seeks parity with co-accused Ali Tarmanini who was granted bail by this Court vide order passed on June 12, 2024 in CRM (SB) 68 of 2024.

Learned counsel for the State produces the case diary and opposes the prayer for bail.

Learned counsel submits that the statement of the petitioner recorded under Section 161 of the Code of Criminal Procedure demonstrates that the petitioner was trying to enter Bangladesh

when he was apprehended. Learned counsel further submits that the petitioner shall abscond if enlarged on bail.

I have heard the submission of the learned counsels for the parties and material on record. Allegation against the petitioner is under Section 14 of the Foreigners Act. The complaint says that the petitioner entered into the territory of India without holding a valid passport. It appears that the passport of the petitioner has been impounded by the learned Judicial Magistrate, Patiyala House Courts, New Delhi. Charge sheet has been submitted. The petitioner is in custody for 219 days. Further detention of the petitioner is not required for the purpose of custodial interrogation. Attendance of the petitioner may be secured upon imposing stringent conditions.

In view of the above, the prayer for bail is allowed.

Accordingly, the petitioner, namely, Abdol Salam Bavar alias Abdol Salam, be released on bail upon furnishing 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, Bongaon, North 24 Parganas subject to condition that the petitioner shall appear before the learned trial Court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event the petitioner fails to appear before the learned trial Court without any justifiable cause, the learned trial Court shall be at liberty to cancel his bail in accordance with law without further reference to this Court.

The application for bail, being CRM (SB) 106 of 2024, is, thus, disposed of.

Case diary be returned.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)