THE HON'BLE Dr. JUSTICE G. RADHA RANI

CRIMINAL PETITION No.2887 of 2024

ORDER:

This Criminal Petition is filed by the petitioners/A1 and A2 under Sections 437 and 439 of Cr.P.C. for grant of bail in Crime No.41 of 2024 of Khammam III Town Police Station, Khammam District, registered for the offences punishable under Sections 420, 467, 468 and 471 of IPC and Section 3 of the Passport (Entry into India) Act 1920, Section 12 of the Passports Act, 1967, Section 3(2)(c) r/w 14(A) of the Foreigners Act, 1946.

2. The case of the prosecution, in brief, was that on 03.02.2024, at 21:00 hours, the Sub Inspector of Police, Khammam I Town Police Station, lodged a report stating that on the instructions of his superiors while the 'Operation Smile' programme was organized in Khammam Town along with Women and Child Welfare Department, DCPU, Child Line, NGO, Police, the team had identified and rescued five minor children on 27.01.2024. On their enquiry, the five children revealed that they belong to Bangladesh and were presently residing with their parents in Srinivasnagar, Khammam. Accordingly, the date of birth certificates of minor

children were collected and on 03.02.2024 at about 18:00 hours, the four suspected Bangladesh Nationals were apprehended at Prakashnagar, Khammam. On their enquiry, they revealed that they were native of Dakatiya Village, Gurdha Post, Maheshpur Sub District, Jhenaidah District, Shyamkur Union Parishad, Bangladesh and they came to Khammam several years ago for their livelihood. A1 to A4 were arrested on 04.02.2024. They were also taken for police custody from 14.02.2024 to 16.02.2024. During interrogation, they confessed that their elder sister Mohammad Saghuri Khatoon @ Shilpa had came to Khammam town from Bangladesh and had married a person belonging to Khammam by name Boda Ramulu. She left her husband due to disputes and joined with one Shaik Ramzon, centering worker, who illegally entered into India from Bangladesh and residing with him at Jalagam Nagar, Khammam Rural and their elder sister also provided false and forged information and obtained Aadhar cards, voter ID cards to Shaik Ramzon and played a key role for their illegal entry into India. Through her, they also applied for Aadhar cards, voter IDs, PAN cards and Indian Passports.

3. Heard the learned counsel for petitioners/A1 and A2 and the learned Additional Public Prosecutor representing the respondent-State.

4. Learned counsel for the petitioners/A1 and A2 submitted that the petitioners/A1 and A2 migrated to India and they were residing at Srinivasa Nagar/Prakash Nagar, Kalvakatta, Khammam since their childhood. The petitioner/A1 married one Sofiya and constructed a new house at Kalvakatta, Srinivasa Nagar, Khammam Town and eking out their livelihood by doing Centring work. They were blessed with a daughter by name Sumaya, aged about 6 years and having permanent residence at Khammam Town. The petitioner/A2 also married one Shaik Rima and was staying at Nayudupeta, Khammam. He was doing fruit business. Their children were studying 8th and 9th classes at Government High School, Jalagam Nagar, Khammam and they were having permanent residence at Khammam Town. The petitioners had lawfully and legally obtained the Aadhar cards, voter cards and PAN card by following the due procedure prescribed by the Government. The petitioners never fabricated and manipulated the documents relating to their identity and relied upon the judgments

of Gauhati High Court in ***Ahmaddul Hassan @ Ahamaddul Hassan v. The State of Assam***[1], Bombay High Court in ***Mohd. Imran Abdul Sattar Ali Shaikh v. The State of Maharashtra***[2], Karnataka High Court in ***Asma Begam v. State of Karnataka***[3] ***and*** Gujarat High Court in ***Carol D/o Patrick Ernest W/o Surjit v. State of Gujarat***[4]. He further submitted that the petitioners were in custody for the past 45 days and their further custody was not required for any custodial interrogation, as they were already taken on police custody and prayed to enlarge the petitioners/A1 and A2 on bail.

5. Learned Additional Public Prosecutor on the other hand opposed grant of bail to the petitioners stating that the accused persons obtained Aadhar cards by giving false information and were living as Indian Nationals by hiding their identity as Bangladesh Nationals to settle in India without having any valid permission from Indian Government. The parents of A1 and A2 and their elder brothers were residing at Dakatiya Village Gurdha Post, Maheshpur Sub District, Shyamkur Union Parishad,

[1] Bail application No.1468 of 2023, dated 17.05.2023
[2] Bail application No.2283 of 2021, dated 21.10.2021
[3] Crl.P.No.4054 of 2019, dated 21.08.2019
[4] Crl.Mis. Application No.19766 of 2020, dated 13.09.2021

Bangladesh Country and they were frequently in contact with them over phone. They provided false and forged information to UIDAI authorities during the Aadhar cards camp as if they were residing at the house of A5 and submitted the address proof of A5 and obtained Aadhar cards and with the said Aadhar card, A1 and A2 obtained PAN cards, voter ID cards and A2 also obtained Indian Passport with that proofs, A1 and A2 acted as Indian Nationals by hiding their Bangladesh Nationality and prayed to dismiss the bail petition of the petitioners/A1 and A2.

6. As it was reported that the petitioners/A1 and A2 were staying in Khammam Town since their childhood and had also got married the persons living in Khammam and were also having children and eking livelihood by doing petty businesses and as it was not reported that they were involved in any unlawful activities till date and no cases were registered against them, it is considered fit to enlarge the petitioners/A1 and A2 on bail during pendency of trial with certain conditions.

7. Accordingly, the Criminal Petition is allowed and the petitioners/A1 and A2 shall be released on bail subject to the following conditions:

1) The petitioners/A1 and A2 shall execute a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties for a like sum each to the satisfaction of the learned III Additional Judicial First Class Magistrate, Khammam.
2) The petitioners/A1 and A2 shall not involve in any illegal activities during pendency of the trial and if any complaints were reported against them, the bail granted to them is liable to be cancelled.
3) The petitioners/A1 and A2 shall abide by the conditions stipulated under Section 437(3) of Cr.P.C.
4) The petitioners/A1 and A2 shall appear before the Investigating officer as and when their presence was required.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. G. RADHA RANI, J

Date: 19.03.2024
ssp