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Serial no.75

Dd

CRM (DB) 1452 of 2024

In re : An Application for cancellation of Bail under Section 439(2) of the Code of Criminal Procedure, 1973.

-And-

In the matter of : The State of West Bengal
... ..Petitioner

Mr. Saibal Bapuli, APP

Mr. Sachit Talukdar, Advocates

... .. For the Petitioner/State

Mr. Sabir Ahmed ,

Mr. Dhiman Banerjee, Advocates

... ..For the Private opposite party

Mr. Atarup Banerjee,

Mr. Rajdeep Pramanik, Advocates

... ..For the Intervenor

1. This is an application for cancellation of bail and directed towards an order dated February 6, 2024 passed by the jurisdictional Court.
2. Learned advocate appearing for the State submits that, the private opposite party is a Bangladeshi national. In support of such contention, he submits that, a passport of Bangladesh was seized from the possession of the private opposite party. Such passport is of the private opposite party. Passport contains immigration stamp of immigration and departure from India on the basis of private opposite party being a national of Bangladesh.
3. Learned advocate appearing for the State draws the attention of the Court to the materials in the case diary. He submits that, apart from Bangladeshi passport, the private opposite party approached an educational institution in India claiming himself to be a national of Bangladesh, got admitted in such institution and did not peruse such course. That apart, there are other materials to establish the nationality of the private respondent as a national of Bangladesh.

4. Learned advocate appearing for the private opposite party submits that, his client was borne in India. In support of such contention he refers to a birth certificate issued by a Government Hospital at Malda. He submits that, the private opposite party is married to an Indian. By virtue of such marriage his client is entitled to reside in India. He contends that his client is an Indian national.
5. Police case relates to the Foreigners Act.
6. A passport of Bangladesh was seized from the possession of the private opposite party. Such passport is of the private opposite party. Such passport contains immigration stamp of the private respondent entering and exiting India from time to time. Private opposite party used such passport.
7. A person may be born in India and obtain citizenship of a new Country. Marriage, to an Indian ipso facto does not result in Indian nationality. Nationality of the private opposite party as an Indian cannot be pronounced conclusively at this stage without the police case being concluded. There is an issue of absconsion given the fact that the private opposite party is a foreign national. He is known to use passport of at least two countries. At least it cannot be concluded that the private respondent is an Indian national.
8. In such circumstances, we cancel the bail granted in favour of the private opposite party. Private opposite party will surrender within 7 days from date before the jurisdictional Court. In default, appropriate steps be taken before the jurisdictional Court.
9. CRM (DB) 1452 of 2024 is **disposed of** accordingly.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)