

03.03.2025
Item No.87
Monthly List
Court No. 26
CHC
Dismissed

CRM (DB) 4026 of 2023

In re : An application for **cancellation** of bail under Section 439(2) read with Section 482 of the Code of Criminal Procedure, 1973, in connection with **Netaji Nagar** Police Station Case No. 56 of 2023 dated 24.03.2023 under Sections 120B/420/465/468/471 of the Indian Penal Code along with Sections 12(1A)(a) of the Passport Act and Sections 14(a)/14(c) of the Foreigners' Act and Charge Sheet no CS 93 dated 30.6.2023 under Sections 120B/420/465/468/471/467 IPC read with Sections 12(1A)(a) of the Passport Act and Sections 14(a)/14(c) of the Foreigners' Act.

-And-

In the matter of : **Smt. Payel Dhar Adhikary**
... ..**Petitioner**

Mr. Ayan Bhattacharya, Senior Advocate
Mr. Anand Keshari, Advocate
... .. For the Petitioner

Mr. Rudradipta Nandy, Ld. A.P.P
Ms. Sonali Das, Advocate
... ...For the State

Mr. Farooque Ali, Advocate
Mr. Afsar Ali, Advocate
... ...For the opposite party no.2

1. Application for cancellation of bail is against an order dated September 6, 2023 passed by the learned Jurisdictional Court.
2. Learned Senior Advocate appearing for the petitioner submits that, the private opposite party is a Bangladeshi National. In support of such contention he draws the attention of the Court to a writing dated September 21, 2023 issued by the

Special Secretary, Government of West Bengal as also to the documents annexed to the affidavit in reply filed by his client in this proceeding. He submits that, it is incumbent upon the opposite party to establish her nationality as an Indian Citizen. Learned Jurisdictional Court misconstrued and misapplied the provisions of the Passport Act in granting bail to the private opposite party.

3. State and the private opposite party are represented.
4. Learned advocate appearing for the private opposite party submits that, there are inter se dispute between the petitioner and his brother. Private opposite party is married to the brother of the petitioner. There are property disputes amongst two brothers. He submits on instructions that, husband of the private opposite party is presently working in the United States of America.
5. We perused the order granting bail by the learned Jurisdictional Court.
6. Learned Jurisdictional Court took into account certain documents of Indian nationality which was produced by the private opposite party to grant bail. Authenticity of such documents is being doubted before us. As on date, we are not in a position to pronounce conclusively that, the documents produced by the private opposite party to prove its claim for Indian citizenship, before the jurisdictional Court, is unreliable.

7. There is no incident of post bail misconduct of the private opposite party.
8. Private opposite party is in India pursuant to an order passed by the High Court in WPA 1795 of 2023 and MAT 140 of 2023.
9. We are informed that, police filed charge sheet. Charges are yet to be framed. Therefore, possibility of trial concluding any time in the near future is remote.
10. In such circumstances, we are not minded to interfere with the order passed by the leaned Jurisdictional Court.
11. CRM(DB) 4026 of 2023 is **dismissed**.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)