

**In The High Court at Calcutta
In the Circuit Bench at Jalpaiguri**

09.01.2025
Item No.3
Court No.01
S.Bag(AR(CR))

CRM (DB) 669 of 2024

In Re: An application for bail under Section 483 of the B.N.S.S., 2023 (corresponding to Section 439 of the Cr. P.C.) in connection with **Kharibari Police Station** Case No. **289 of 2023** dated **12.10.2023** under Section 14(b) of the Foreigners Act, 1946.

And

In the matter of: Mr. Li Xiaokang

..... petitioner

Mr. Shri Singh
Mr. Dhiraj Lakhotia
Ms. Radhika Agarwal
Ms. Meghana Joshi
Ms. Khushi Kundu

..... for the petitioner

Mr. Aditi Shankar Chakraborty, Ld. APP
Mr. Nilay Chakraborty
Mr. Kallol Nag

..... for the State

The petitioner is a citizen of the Peoples' Republic of China and is in custody after being apprehended 600 metres within Indian borders.

The charge against the petitioner is inter alia under 14A(b) of the Foreigner's Act 1946 of having entered India without a valid visa.

It is contended on behalf of the petitioner that there are no incriminating materials which have been found on the petitioner. The petitioner has been in custody since 12 October 2023. Despite a charge sheet having been filed as far back as on 9 December 2023, there is no progress in the trial.

On behalf of the State, it is contended that the petitioner was intercepted alongwith two citizens from Nepal who had aided and abetted the petitioner's entry to India. Subsequently, after obtaining bail, the two co-accused Nepali citizens are untraceable.

In a matter of this nature, where national security may assume significance, there is nothing on record to demonstrate that the State has either informed the Ministry of External Affairs or any other Central Investigating Authority of the above facts or the arrest of the petitioner.

Considering the gravity of the offences involved, the paramount interest of national security and the fact that the two of the co-accused after having been granted bail are now absconding, there are no grounds to grant bail to the petitioner. There is every possibility of the petitioner absconding or fleeing from justice, if released on bail.

Under such circumstances, we are of the opinion that this is not a fit case nor stage to grant bail.

The Trial Court is requested to take necessary steps for expeditious disposal of the trial, if necessary by splitting of the trial, in accordance with law.

Accordingly, CRM (DB) 669 of 2024 stands dismissed. The prayer for bail stands rejected.

(Ravi Krishan Kapur, J.)

(Uday Kumar, J.)