09.10.2026
***Serial no.* 6**
***Court No.* 34**
BP
(***allowed***)

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION

CRM (M) No. 2447 of 2026

In re: An application for bail under Section 439 of the Code of Criminal Procedure corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita in connection with GR 1558 of 2026 arising out of Swarupnagar Police Station Case No. 142/2026 dated 03.04.2026 under Sections 21 of the Immigration and Foreigners Act, 2025 & Section 12 of the Passports Act, 1967 pending before the learned Judicial Magistrate, 1st Additional Court at Basirhat, North 24 Parganas.

-And-

In the matter of : Rocky Francis D'costa

… … Petitioner

Mr. Ayan Bhattacharjee
Mr. Apalak Basu
Mr. Yavik Singhal

… … For the Petitioner.

Mr. Anamitra Banerjee
Ms. Priyanka Bhattacharyya

… …For the State.

1. In terms of the direction passed by the learned Co-ordinate Bench a report is furnished before this Court which prima facie disclosed that from physical verification and documents obtained from Apollo Multi Specialty Hospital the medical treatment of Mrs. Stella Rozario during the aforesaid period

has been verified which are found to be genuine. Let the report be kept with the record.

2. It is the case of the petitioner who has prayed for grant of bail after a period of more than six months from the date of arrest ,was arrested on the ground of not having proper document under Section 21 of Immigration and Foreigners Act, 2025 and Section 12 of the Passport Act, 1967.

3. The crux of the matter as placed before this Court is that the petitioner is a person holding refugee status and valid travel document issued by French authorities. He is a Christian born in Bangladesh and is a religious minority of Bangladesh and faced religious persecution. He was given refugee status at Republic of France and having a valid passport of France which holds resident status of France which is valid till 30/06/2033. The documents have been annexed with this petition and the copy of the same was served upon the prosecution. In addition it is submitted by the Learned Counsel by filing a supplementary affidavit that he had to stay back in India because of the treatment of his mother. She was undergoing treatment since 2022 at Christian Medical College, Vellore or Apollo Hospitals. To that respect the documents furnished before this Court was handed over to the prosecution and in terms of that report placed before this Court today reflects that those are

genuine in nature. Therefore, the sum and substance found is that a person holding valid document from the France and a valid passport issued by Republic of France being "TITRE De SEJOUR HMQO ZID3C got arrested for not having valid document while crossing India Bangladesh border .

4. On behalf of prosecution the only objection raised that he was apprehended or arrested when he was crossing the border from India to Bangladesh and he failed to produce any cogent documents.

5. However, from the seizure list it appears that other than the mobile phone, the passport of France which was issued dated 5th August, 2023 and valid till 4th August, 2028 and Bangladesh NID No. 7353026532 were seized. It is alleged by the prosecution that no other criminal antecedents are found against him.

6. In this regard it is pertinent to discuss the observation of the Hon'ble Supreme Court made in a very recent decision of ***Union of India Vs. Chidiebere Kingsley Nawchara & Ors. 2026 INSC 870*** where the Union appealed a bail granted to a Nigerian National in a DRI case involving about 4.9 kg of heroin. The principal matter enunciated in paragraph 13.5 of the said decision is as follows:-

> *"13.5 From the above judgments as also others, inter alia, Sartori Livio v. The State (Delhi Admin) 46; Haroub*

Slaum Sleyoum v. Shri Abdul Qadir, the following principles emerge:
(i) Foreign nationals are entitled to protection under Article 21 of the Constitution of India;
(ii) The State has power as the sovereign to regulate, restrict and expel foreign national;
(iii) Merely because an accused/convict is a foreigner, the right to bail cannot be circumscribed. It is permissible to impose special conditions on them while keeping in view the right to privacy and personal liberty under Article 21.
(iv) The conditions of bail must be reasonable, proportionate and capable of compliance."

7. Slew of directions were also imposed while releasing of bail to a Foreign National by the Hon'ble Supreme Court. Considering all aspect of the matter that there is no other criminal antecedent attached with the present petitioner who is a foreign national and he was arrested while crossing the border from India to Bangladesh having valid document of his French refugee status as well as Bangladesh origin being Bangladesh NID and further that the investigation has come to an end and culminated in filing of chargesheet coupled with the fact that his mother was under a continuous treatment in India at Apollo Hospital this Court is of the view that there is no necessity of further custodial interrogation .

8. Accordingly the petitioner be released on bail on providing surety of Rs. 20,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Basirhat, North 24 Parganas with the following conditions.

(a) The accused so released on bail shall register within one week to maximum two weeks of release considering the ensuing Durga Puja with the Foreigners Regional Registration Office (FERO) and inform ,in writing to the investigating officer as also the concerned court of having made such Registration;

(b) An accused foreign national shall mandatorily produce two sureties of like amount to secure bail. If the concerned court is of the considered view, upon it being so demonstrated to them, that despite sufficient effort it has become difficult/impossible to secure two sureties, the concerned Court may relax this condition by way of a written order recording reasons;

(c) The process of verification of sureties shall in this case be done within three to five days and the verification report be placed before the Trial Court prior to the release of the accused. If the time line is not followed,

the reasons therefore be recorded and brought to the notice of the concerned court ;

(d) Even if the residential address of the accused and other contact information etc. within India was verified during the course of investigation, the same shall be re-verified, physically, within three days of the order of granting bail but prior to the completion of the process of the accused being released on bail;

(e) The accused shall file before the concerned court ,an Affidavit indicating his source of income ,funds within India and also give details of all Bank accounts ,if any ,in the country;

(f) The concerned Investigating Officer shall, through written communication, inform the Embassy of the country of origin of the accused of their involvement in the alleged crime and also of this bail order and the involvement in the alleged crime .

(g) When a person will stand as security in favour of a Foreign National Accused, a lien, charge equal to the amount of the surety Bond be created on their property in any form, including immovable property .In case of violation of any of the condition imposed the concerned Court may, in the attending facts and circumstances of each case,direct the realization of

such lien and the order of bail shall be treated as cancelled.

9. The Learned Court as well as the Learned Prosecution is to take all necessary steps in accordance with the direction passed by the Hon'ble Supreme Court in the abovementioned decision.

10. Accordingly the prayer for bail of the petitioner is **allowed**.

11. CRM (M) 2447 of 2026 is **disposed of**.

(Chaitali Chatterjee (Das), J.)