

06.04.2021
Mithun
Sl. No.05.
D/L.
Ct.No.30.

CRM/2717/2021

In re: An application under Section 439 of the Code of Criminal Procedure in connection with GR Case No.61/21 arising out of Hemnagar Coastal Police Station Case No.02/21 dated 05.01.2021 under Section 14/14C of the Foreigners Act, 1946.

In the matter of : Khadija Begam.

...the petitioner.

Mr.Satadru Lahiri, Adv,
Mr.Safdarv Azam, Adv.

... for the petitioner.

Mrs. Faria Hossain, Adv.,
Ms. Baisali Basu, Adv.

...for the State.

Pressing a bail of the petitioner, it is submitted by the learned Advocate for the petitioner that one Biplab Dey, S.I. of Police, Hemnagar Costal Police Station has submitted a report on 23rd March, 2021 in compliance with the order dated 17th March, 2021 wherein he submitted that accused/petitioner produced voter identity card and Aadhaar card before this Court for the first time to claim her citizenship of this Country. However, he has produced the certified copy of the order sheets of G.R. Case No.61 of 2021 wherefrom it is learnt that the said documents were actually produced before the learned Magistrate who

directed the Investigating Officer to conduct enquiry and submit a report with regard to the said documents. But without submitting a report the Investigating Officer submitted charge-sheet in G.R.Case No.61 of 2021 which prompted the learned Magistrate to reject the application for bail of the petitioner under Section 437 of the Code of Criminal Procedure.

It is frankly submitted by the learned Advocate for the petitioner that in the EPIC card, the name of her husband is shown as Roshith Khan but in the F.I.R., as per the statement of the petitioner the name of her husband was recorded as Late Salam Hauladar. This discrepancy was sought to be clear from the Investigating Agency. The Investigating Agency has mentioned the discrepancy in the EPIC Card and the statement of the accused with regard to husband's name of the petitioner.

Learned Advocate for the petitioner submits that this is merely a typographical error and it can be rectified at any point of time. However, the petitioner is a resident of Bangalore. A rent agreement was executed between the petitioner and her landlord at Bangalore. Local Tahsildar issued a residential certificate in the name of the petitioner.

Therefore, the learned Advocate for the petitioner has prayed for further enquiry into the matter by Investigating Officer and a report.

It is needless to say that residential certificate may be obtained by any resident, he may be an Indian National or

Foreign National, if he stays at a particular place. Residential certificate is not a proof of citizenship. I have already recorded that the Advocate for the petitioner has prayed for further enquiry with regard to the name of the husband of the petitioner.

It is already recorded that charge sheet has been submitted in this case. The petitioner is at liberty to make such prayer before the learned Trial Court during trial of the case and in such event, the learned Trial Court will cause enquiry during the trial on the basis of the evidence on record.

At this stage I do not find any merit in the application for bail.

Prayer for bail is, thus, rejected.

(Bibek Chaudhuri, J)