

C.R.M. (DB) 2988 of 2024

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 2023 in connection with **Hili P.S. Case No. 01 of 2022 dated 03.01.2022** under **Section 14A(b)** of the Foreigners Act.

And

In the matter of: **Taslima Begum @ Taslim Jabbar @ Taslima @ Tasleema.**

Mr. Biswajit Manna, ...for the Petitioner.

Mr. Ranadeb Sengupta,
Mr. Mainak Gupta,for the State.

1. Petitioner contends that she is an Indian National. She relies on various documents in support of her plea. That apart, he submits, petitioner is in custody for more than one third of the maximum sentence and is entitled to bail on such score.
2. Learned lawyer opposes the bail prayer.
3. We have considered materials on record. Petitioner is a first time offender. Proviso to Section 479 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), inter alia, states a first time offender may be enlarged on bail if he is in custody for more than one-third of the maximum sentence prescribed in law. In re Inhuman Conditions in 1382 Prisons¹, Apex Court held the beneficial provisions in Section 479 BNSS shall apply to pending cases registered prior to 1st July, 2019. Maximum sentence in the present case is eight years. Petitioner has already undergone two years nine months i.e. more than one-third of the sentence. It is argued she is foreign national and may not be released. Right to speedy trial enshrined in Article

¹ Writ Petition (Civil) No.406/2013 dated 23.08.2024

21 of the Constitution of India is applicable to foreigners also. Section 479 B.N.S.S. is a species of the said Fundamental Right to speedy trial and would enure to the benefit of the petitioner even if she is a foreigner.

4. Under such circumstances, we are inclined to enlarge the petitioner on bail.
5. Accordingly, we direct the petitioner viz. **Taslina Begum @ Taslim Jabbar @ Taslima @ Tasleema** shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Balurghat, Dakshin Dinajpur subject to the condition that the petitioner shall appear before the trial court on each and every date of hearing until further orders and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever and on further condition that the petitioner shall remain within the district of Dakshin Dinajpur and shall also furnish the address where she will be residing to the Officer-in-Charge in whose jurisdiction she will be residing and shall also appear before such Officer-in-Charge once in a week until further orders.
6. In the event petitioner fails to appear before the Trial Court without any justifiable cause, the Trial Court shall be at liberty to cancel his bail without any further reference to this Court.
7. The application for bail is, thus, allowed and disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)