

IN THE HIGH COURT AT CALCUTTA
CRIMINAL MISCELLANEOUS JURISDICTION
APPELLATE SIDE

CRM (DB) 2856 of 2024
Jahed Mahammad

Vs.

The State of West Bengal & Anr.

Before: The Hon'ble Justice Arijit Banerjee
&

The Hon'ble Justice Apurba Sinha Ray

For the Petitioner :	: Mr. Nure Zaman, Adv. Mr. Sk. Humayun Reza, Adv.
Amicus Curiae	: Mr. Debasis Roy, Learned Public Prosecutor
For the State :	: Mr. Soumik Ganguly, Adv. Mr. Md. Ejaz Akhter, Adv.
For the defacto complainant:	: Ms. Reshmi Khatun, Adv.
For the daughter of the Accused	: Mr. Sobhan Majumdar, Adv.
For Orders On:	: 18.02.2025

Apurba Sinha Ray, J. :-

1. Read the order dated 09.12.2024.
2. The report submitted by Officer-in-Charge, Law Cell, Directorate of Correctional Services, West Bengal dated 08.01.2025 discloses that only

Vakalatnamas and Bail Bonds are received at Correctional Homes for the purpose of obtaining signature/LTI of inmates. The purpose of signing the Vakalatnamas that are received at Correctional Homes (whether it is for filing bail application or for appointment of an advocate for conducting respective criminal cases) cannot be ascertained by the Correctional Homes authority. It is further reported that attaching prisoner's petition with each vakalatnama that is received at a Correctional Home, would be a tedious task. However, it has further been reported that the proposal as per order dated 09.12.2024 of this court may be followed on trial basis for two months initially, to assess the practical pros and cons of such exercise.

3. We had also requested Learned Public Prosecutor to submit his views. Accordingly, the Learned Public Prosecutor has submitted a written note.

4. After an effective deliberation over the matter with the learned Public Prosecutor this Bench directed that henceforth the following procedure for obtaining Vakalatnama from inmates of the correctional homes and the accused produced for first time on arrest before the court shall be adopted:-

- i) Vakalatnama has to be presented to the Correctional Home being accompanied by a memo either of any relative of the inmate and/or an advocate. The inmate while executing the vakalatnama should also give an endorsement that indeed such request for execution of the vakalatnama has been made by either his relation or an advocate he wishes to appoint. Both the memo along with the executed vakalatnama has to be filed before the concerned Court.

Signatures of the inmate on the vakalatnama and memo are to be counter-signed by the Superintendent of the Correctional Homes.

- ii) When an accused is produced for the first time before a Court of Law, the same procedure should be adopted and then only the Hajat-in-Charge is to forward the executed vakalatnama and the memo endorsed by the accused (being produced for the first time in court) and counter signed by him, to the concerned Advocate. The signatures of the inmate on the vakalatnama are to be counter-signed by the Hajat-in-Charge of the Court Lock-Up concerned.
- iii) This procedure is to be adopted only for execution of vakalatnama by the under trial prisoners and the accused produced for the first time before a court of law on arrest. The relevant SOP for notarization of any pleadings by an inmate would continue without any modification.
- iv) In no case the vakalatnama should be allowed to be executed at the Police Station in respect of non-bailable cases.
- v) The Correctional Homes and the Hajat-in-Charge of Court Lock Ups should be encouraged to use biometric machines for the purpose of verification of the arrestee.

5. The Registrar General should communicate this order to the Inspector-General of Correctional Services, West Bengal and all the District Judges, Chief Judges of the City Sessions Court & City Civil Court,

Calcutta, Chief Judicial Magistrates along with Judicial Magistrates and Superintendents of Police of all the Districts including A & N Islands for necessary compliance by all the stakeholders. All the Correctional Homes and the Police Stations throughout the West Bengal should also be informed by the office of the Public Prosecutor accordingly.

6. Accordingly, CRM (DB) 2856 of 2024 is disposed of.

7. Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of all necessary formalities.

I Agree.

(APURBA SINHA RAY, J.)

(ARIJIT BANERJEE, J.)