

34.
27-10-2025
(ct. no.446)
debajyoti
(allowed)

CRM (M) 1676 of 2025

In re: An application for bail under Section 439 of the Code of Criminal Procedure/483 of the Bhartiya Nagarik Suraksha Sanhita in connection with Tiljala Police Station Case No.158 of 2017 dated 17-06-2017 under Sections 14A(b)/14(C) of the Foreigners Act.

- A n d -

In the matter of : Kohinur Bibi @ Ratna Bibi & Anr.

.... Petitioners.

Mr. Joy Chakraborty,
Mr. Souvik Ganguly

... For the Petitioners.

Mr. Arijit Ganguly,
Ms. Nandini Chatterjee

... For the State.

1. It is submitted on behalf of the petitioners that they are in custody for 7 years 10 months 11 days where the maximum period of punishment under Section 14A of the Foreigners Act is 8 years. The trial is yet to commence before the learned trial Court as the trial started before the learned court of Magistrate and was on the verge of completion when date was fixed for taking evidence of the accused persons under Section 313 of the Code of Criminal Procedure, at that stage, the matter was transferred to the present trial Court and for that, the trial has not yet been commenced despite having a specific direction of this Court on 21st February, 2025 to expedite the trial. The fact remains that the present petitioners are Bangladeshi nationals and the petitioner no.1 was having three criminal antecedents for which the bail prayer was not considered earlier.

2. The peculiar stage has arrived as the period of detention undergone by both the petitioners is almost full

period of imprisonment as mentioned in the concerned provision itself. Only two months are remaining to complete the period of eight years, that is the maximum period prescribed in the provision.

3. In this regard, the decision of the Hon'ble Supreme Court passed in Isaac Isanga Musumba Vs. State of Maharashtra, Writ Petition (Crl.) No.80 of 2013, where it was observed that the word 'person' in Article 21 of the Constitution of India is wide enough to cover not only citizens of this country but also foreigners who come to this country. The State has an obligation to protect the liberty of such foreigners who come to this country and ensure that their liberty is not deprived except in accordance with the procedure established by law. That apart, Section 479 of BNSS provides for bail and in terms of the said provision, excepting the offences where the offence is punishable for death or life, and the period of detention is undergone, extending upto one-half of the maximum period of imprisonment as specified for that offence under that law, he shall be released on bail. In this case, such period of detention has been covered.

4. In this case, since the petitioners' period of detention is almost on the verge of completion of the maximum period of imprisonment as envisaged in the provision itself, this Court has no other alternative but to grant order of bail to the petitioners.

5. Accordingly, the petitioners, namely, **Kohinur Bibi @ Ratna Bibi** and **Sagar Molla**, shall be released on bail upon furnishing bonds of Rs.10,000/- (Rupees Ten Thousand) each, with two sureties of like amount each, to the satisfaction of learned Chief Judicial Magistrate, Alipore. The petitioners shall appear before the learned trial Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any

manner whatsoever and shall not commit any cognizable offence in any manner whatsoever. The petitioner no.2 shall appear before the Officer-in-Charge/Inspector-in-Charge of the local police station once in a week, until further orders. The petitioners shall inform their current local address where they shall be residing while on bail, to the learned trial Court and the local police station. The petitioners will not leave the jurisdiction of the local police station without permission of the trial Court.

6. At this stage, judgment of the Hon'ble Supreme Court in the case of Frank Vitus Vs. Narcotics Control Bureau, 2025-INSC-30, is considered where it was observed by the Hon'ble Supreme Court while granting bail to a foreigner that the concerned court shall issue direction to the State or prosecuting agency, as the case may be, to immediately communicate the order granting bail to the concerned Registration Officer appointed under Rule 3 of the Rules, who, in turn, shall communicate the order to all concerned authorities including the Civil Authorities. In view of that, such direction is also given to the State Prosecuting Agency of this case to comply with this direction as passed by the Hon'ble Supreme Court, as discussed above.

7. In the event the petitioners fail to comply with any of the conditions stipulated above, the trial Court shall be at liberty to cancel the bail in accordance with law without further reference to this Court.

8. The application for bail is, thus, **allowed**.

9. All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

10. Criminal Section is directed to supply certified copies of this order to the parties, if applied for, upon compliance of all necessary formalities.

[Chaitali Chatterjee (Das), J.]