

25.04.2025
Item No. 13
Ct. No. 4
(AN)

**THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

CRM (DB) 188 of 2025

In Re:- An application for post arrest bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Sitalkuchi Police Station Case No. 104 of 2021 dated 05.05.2021 corresponding to F.I.R. No. RC0562021S0019 under Sections 120B, 147, 149, 302 read with Section 34 of the Indian Penal Code, 1860 corresponding to Sessions Trial Case no. 1 of 2024.

In the matter of : **Tahidul Mia @ Tahidul Miya**
... Petitioner

Mr. Subham Ghosh
Mr. Mayank Roy
... for the petitioner

Mr. Sudipto Kumar Mazumdar, Id. DSGI
Mr. Ajoy Kumar Singhanian
... for the CBI

Mr. Nilay Chakraborty, Id. APP
Mr. Sourav Ganguly
... for the State

1. Learned counsel representing the petitioner submits that the petitioner is in incarceration for about 1400 days. He further submits that altogether 18 persons have been charge sheeted and out of them 6 are absconding while the remaining 12 are facing trial. Out of those 12 accused persons, 11 have been granted bail while the petitioner herein viz. Tahidul Mia @ Tahidul Miya is in custody.

2. In support of his contention, learned counsel refers to page 27 of the said petition and submits that two fire arms were recovered, one from Haridas Burman while the other from Tahidul Mia @ Tahidul Miya, the petitioner herein. He further submits that the said Haridas Burman has been granted bail.
3. Learned counsel representing the petitioner further submits that from this petitioner, when he was first arrested on 24.06.2021, the first gun which was recovered from him has been shown to be seized in another crime being Shitalkuchi Police Station Case no. 178 of 2021 dated 24.06.2021 while the gun which has been recovered from the petitioner in connection with the instant case being Shitalkuchi Police Station Case No. 104 of 2021 is the second gun that has been seized on 03.07.2021.
4. Learned counsel also refers to the paragraphs no. 5 and 6 of the order dated 28.02.2025 passed by the Hon'ble Apex Court in Criminal Appeal No.(S) 989 of 2025 arising out of S.L.P.(Criminal) No.(S) 18412 of 2024 in respect of a bail application concerning another co-accused and submits that according to the Hon'ble Apex Court, it appears that genesis of the case is a political rivalry between the two political parties and the Hon'ble Apex Court has also

opined that the said appellant viz. Naba Kumar Burman deserves to be enlarged on bail pending trial.

5. The learned counsel in support of his contention relies upon the judgment passed by the Hon'ble Apex Court in the case of **Rabi Prakash vs. The State of Odisha** reported in **2023 (3) CriCC 438**. He further refers to another judgment of the Hon'ble Apex Court in the case of **Vihaan Kumar vs. The State of Haryana & anr.** reported in **2025 SCC Online SC 269**.
6. While referring to **Rabi Prakash** (supra), learned counsel submits that long incarceration has been dealt with by the Hon'ble Apex Court and the Hon'ble Apex Court has been pleased to grant bail to the petitioner. He further submits that relying upon Article 22 of the Constitution of India, the Hon'ble Apex Court in the case of **Vihaan Kumar** (supra) held that it is mandatory that an arrested person must be informed of the reasons for his arrest as soon as possible.
7. Banking upon the aforementioned citations and the facts and circumstances of the case, the learned counsel for the petitioner prays for granting bail to the petitioner.
8. Per contra, learned counsel representing the Central Bureau of Investigation vehemently opposes the prayer for bail and submits that against this petitioner, there is direct evidence of shooting as is evident from the

statement of the witnesses. He further submits that against the said Naba Kumar Burman, there was no direct evidence of shooting and considering the genesis and the role of the said accused viz. Naba Kumar Burman he has been enlarged on bail while the petitioner herein is not on the same footing as that of the co-accused.

9. Learned counsel representing the Prosecution also brings to the notice of this Court the judgment dated 01.10.2024 passed by the Division Bench of this Court in CRM(DB) 92 of 2024 with CRM(DB) 483 of 2024 with CRR 2987 of 2022 with regard to petitions praying for bail by this petitioner alongwith another co-accused and as regards to change of venue of trial. He highlights that Article 21 of the Constitution of India and Article 22 of Constitution of India have been dealt with elaborately.
10. In support of such contention, learned counsel relies upon the judgment of the Hon'ble Apex Court dated 27.11.2024 in the case of **X vs. State of Rajasthan & anr.** reported at **2025 (1) Supreme 494** and refers to paragraph 14 wherein it has been laid down that ordinarily in serious offences like rape, murder, dacoity etc. once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court, should be loath in entertaining the bail application of the accused.

11. Considering the submissions of all the parties and on perusal of the documents on record, it transpires that there is direct involvement and active and prime role played by this petitioner.
12. From the submission of the learned counsel representing the petitioner, it also transpires that two arms were recovered, one relating to this incident while the other relating to another incident in respect of which a separate criminal case is proceeding against this petitioner. So, it is also evident that the petitioner is an habitual offender.
13. The incident took place during the month of May, 2021 and the petitioner has been arrested soon thereafter, as such raising the question of not being properly informed as regards to arrest is not at all tenable at this point of time when the trial has already commenced and four witnesses have already deposed and the trial is in full swing. After about four years, the question of procedure of arrest is not at all tenable.
14. This Court relies upon the judgment of the Hon'ble Apex Court passed in **X vs. State of Rajasthan** (supra) where in paragraph No. 14 of the said judgment, it has been held by the Hon'ble Apex Court as follows:

“14. ordinarily in serious offences like rape, murder, dacoity etc. once the trial commences and the prosecution starts examining its witnesses, the Court be it the

Trial Court or the High Court, should be loath in entertaining the bail application of the accused.”

15. Considering the dual aspect of incriminating facts against the petitioner as to his direct involvement and also considering the fact that trial has already commenced and four witnesses have already been examined, this Court is not inclined to grant bail to the petitioner. As such the prayer for bail is **rejected**.
16. Accordingly, **CRM(DB) 188 of 2025** stands **dismissed**.

(Supratim Bhattacharya, J.)