

22.07. 2025
Item No. 02
g.b.
Ct. No. 04

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI

C.R.M (M) 176 of 2025

In re: An application for Bail under Section 483 of the Code of Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Kotwali Police Station Case No. 214 of 2025 dated 22nd April, 2025 under Section 14A of Foreigners Act read with Sections 303(2)/317(2)/224 of BNS.

And

In Re : **Md. Dafirul @ Dafirul Haque**
... Petitioner.

Mr. Jaydeep Kanta Bhowmik
Mr. Sayantan Bhowmik
Mr. Shubham Kumar
Ms. Sayantani Das

...For the petitioner.

Mr. Abhijit Sarkar
Mr. Tapan Bhattacharjee
....For the State

1. The present application, being CRM(M) 176 of 2025, has been filed by the petitioner, **Md. Dafirul @ Dafirul Haque** under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking his release on bail in connection with [FIR No. and Year, e.g., Mekhliganj P.S. Case No. XXX of 2025]. The petitioner stands charged under **Section 14A of the Foreigners Act** read with **Sections 303(2), 317(2), and 224 of the Bharatiya Nyaya Sanhita, 2023**, along with other co-accused persons.
2. Mr. Jaydeep Kanta Bhowmik, learned advocate appearing on behalf of the petitioner, submits that the petitioner is

languishing in custody since **10th June, 2025, and** highlighting that the investigation is culminated into a **charge sheet, filed on 27th June, 2025**. As such further detention for the purpose of investigation not required. This is not a case where custodial trial is necessary. However, Mr. Bhowmik further emphasized that the petitioner is an **Indian citizen**, and therefore, the apprehension of his absconding or fleeing from the jurisdiction of the trial Court is "bleak." He concluded his submissions by asserting that keeping the petitioner behind bars, post-filing of the charge sheet, would serve no meaningful purpose and prayed for his release on bail subject to any conditions deemed fit by this Hon'ble Court.

3. Per contra, Mr. Abhijit Sarkar learned Advocate for the State, vigorously opposed the prayer for bail. While acknowledging the filing of the charge sheet, he contends that the gravity of the offences, particularly those involving in the Foreigners Act, warrants continued detention of the petitioner. He did not elaborate on specific instances of the petitioner being a flight risk or potential for tampering with evidence, save for a general opposition based on the serious nature of the alleged crimes.
4. I have meticulously heard the rival contentions advanced by the learned counsels for both parties, also given due consideration to the undisputed facts presented before me, namely, the date of arrest of the petitioner (10th June, 2025) and the subsequent filing of the charge sheet on 27th June, 2025.

5. The legal position regarding bail, especially after the completion of investigation and filing of the charge sheet, is well-established. At this stage, the primary considerations for granting or refusing bail shift from the necessity of custodial interrogation to factors such as the likelihood of the accused tampering with evidence, influencing witnesses, or absconding from justice. The learned counsel for the petitioner has affirmed that the petitioner is an Indian citizen, which ordinarily diminishes the apprehension of him fleeing the country, provided robust conditions are imposed.
6. While the allegations under the Foreigners Act and the Bharatiya Nyaya Sanhita are indeed serious, the fundamental principle of "bail, not jail" guides the discretion of this Court. Since the investigation is complete and the charge sheet has been filed, the documents and evidence are now before the Court, reducing the scope for the petitioner to directly interfere with the investigative process. No compelling material has been placed before us by the State to demonstrate a high probability of the petitioner tampering with evidence or intimidating witnesses, which cannot be adequately addressed by imposing stringent conditions.
7. In view of the above facts and circumstances, particularly the period of detention already undergone by the petitioner and the completion of the investigation, we are convinced that the continued detention of the petitioner is not warranted. However, considering the gravity of the offences alleged, it is imperative to

impose strict conditions to ensure his presence during the trial and to safeguard the integrity of the judicial process.

8. Accordingly, the petitioner, **Md. Dafirul @ Dafirul Haque** is directed to be released on bail upon furnishing a **bond of Rs. 10,000/- (Rupees Ten Thousand Only)** with **two sureties of like amount**, one of whom **must be a local resident of District Cooch Behar or Jalpaiguri**, to the satisfaction of the learned Chief Judicial Magistrate, Jalpaiguri.
9. This order of bail shall be subject to the following stringent conditions, the violation of any of which shall lead to immediate cancellation of bail:
 - a) The petitioner shall **appear before the Court of the learned Chief Judicial Magistrate, Jalpaiguri, on each and every date fixed for the trial** of the case. Any single unexcused absence on the part of the petitioner shall automatically result in the cancellation of this bail, and the learned Trial Court shall be at liberty to issue appropriate coercive processes for his apprehension without further reference to this Court.
 - b) The petitioner **shall not leave the territorial jurisdiction of the Districts of Cooch Behar and Jalpaiguri** without obtaining prior express leave from the Court of the learned Chief Judicial Magistrate, Jalpaiguri. Should any travel outside this specified jurisdiction be necessary, a reasoned

application must be submitted to the learned Trial Court at least 72 hours in advance.

- c) The petitioner **shall not, directly or indirectly, tamper with the evidence** or in any manner **influence, coerce, or threaten any witness** connected with the case, including the alleged Bangladeshi national or any other individual associated with the investigation.
- d) The petitioner shall **cooperate fully with the trial proceedings** and shall not seek unnecessary adjournments or obstruct the expeditious disposal of the case in any manner whatsoever.
- e) The petitioner shall **provide his permanent and current residential addresses, along with a functional contact number**, to the Court and the Investigating Officer, and shall promptly inform them of any change in these details within 24 hours.
- f) The petitioner shall **report to the Officer-in-Charge of [Petitioner's Local Police Station] Police Station once every fortnight**, preferably on [mention a specific day, e.g., the first and third Saturday of each month], between 11:00 A.M. and 1:00 P.M., until the conclusion of the trial.

10. It is explicitly clarified that any breach of the aforesaid conditions shall automatically lead to the cancellation of bail granted to the petitioner, and he shall be liable to be taken into

custody forthwith upon an application moved by the prosecution or *suo motu* by the learned Trial Court or this Court.

11. C.R.M.(M) 176 of 2025 stands **disposed of**.

12. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on an urgent basis after completion of all necessary formalities.

(Uday Kumar, J.)