

14.01.2026
Court No.25
DL/Item No.–15 & 16
[PP/Milan]

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

WPA 28472 of 2024

**Faridul Alam
versus
The Union of India & Ors.**

With

WPA 9182 of 2025

**Tasleema Ara & Anr.
Vs.
The Union of India & Ors.**

Ms. Afreen Begum
Ms. Swastika Chowdhury,
Ms. Ilika Nag,
Mr. Dip Dutta,
Mr. Bilal Hasan
....for the Petitioners

Mr. Ashok Kr. Chakraborty, Ld. ASG.,
Mr. Rajdeep Majumdar, Ld. DSG.,
Mr. Atarup Banerjee,
Ms. Amrita Pandey,
Mr. Subit Majumdar,
....for UoI

Mr. Kishore Dutta, Ld. AG.,
Mr. Sk. Md. Galib, Sr. Govt. Adv.,
Ms. Sujata Mukherjee
....for the State
(in WPA 28472 of 2024)

Mr. Kishore Dutta, Ld. AG.,
Mr. Amal Kr. Sen, Ld. AAG.,
Ms. Ashima Das (Sil)
....for the State (in WPA 9182 of 2025)

In Re: WPA 28472 of 2024

1. The petitioner has filed this writ petition praying for direction upon the respondents to release the petitioner, who is at present lodged at Howrah District Correctional Home on disclosing his destination for residence and on undertaking to report the local police station.
2. The petitioner was charged with Section 14 of the Foreigners Act and on completion of the investigation, the police has submitted the charge sheet. On 3rd May, 2017 at the time of framing of charge, the petitioner pleaded guilty for committing offence under Section 14 of the Foreigners Act. The Judicial Magistrate, 7th Court, Howrah convicted the petitioner and sentenced to suffer simple imprisonment for one year and three months i.e. 455 days.
3. It is further ordered that period of detention, if any, undergone by the petitioner for a period of one year and three months, i.e. 455 days be set up against the sentence passed under Section 428 of the Cr.P.C.
4. It is further ordered that the petitioner being the Mayanmaree national be repatriated to his native country at once upon expiry of the sentenced imposed.
5. The learned Counsel for the petitioner submits that the petitioner was arrested on 9th February, 2016 and since then the petitioner is in correctional home. Though, the learned Magistrate has passed the order of conviction sentencing the petitioner for one year and three months and sentenced has been completed on 8th April, 2017

but the petitioner is in correctional home for the last about 9 years.

6. On completion of sentence, the petitioner has made an application before the learned Magistrate on 27th June, 2018 with the prayer for compliance of the order dated 3rd May, 2017, wherein the learned Magistrate has directed for repatriating the petitioner to his native country at once on expiry of the sentence.
7. The learned Magistrate, by an order dated 27th June, 2018, has dismissed the application filed by the petitioner on the ground that the learned Magistrate has no jurisdiction to pass any further order once he has already disposed of criminal case by imposing sentence upon the petitioner.
8. The petitioner has relied upon the judgment in the case of **MS Maja Daruwala & Anr. Vs. State of West Bengal & Anr.** in Transferred Case (Criminal) No.1 /2013 dated 16th May, 2025 wherein the Hon'ble Supreme Court has passed an order holding that if there is any illegal migrant as on date in any of the prisons within the State of West Bengal who has undergone the entire sentence and is still confined in any of the prison, passed three years from the date of completion of his/her original sentence, he/she, be released on bail subject to the following conditions:-

“(a) Execution of bond with two sureties of Rs.1,00,000/- (Rupees one lakh only) each of Indian citizens;

(b) He or she specifies verifiable address of stay after release;

(c) Biometric of his/her iris (if possible) and all ten fingerprints and photos shall be captured and stored in a secured database before release from the detention centres. He or she shall report once every week to the Police Station specified by the Foreigners Tribunal;

(d) He or she shall notify any change of his or her address to the specified Police Station on the same day, and

(e) A quarterly report to be submitted by the Superintendent of Police (Border) to the Foreigners Tribunal regarding appearance of such released declared foreigner to concerned Police Station and in case of violation of condition, the DFN will be apprehended and produced before Foreigners Tribunal."

9. The learned Counsel for the petitioner submitted the judgment passed by the Hon'ble Supreme Court equally applicable in the case of the petitioner as the petitioner is in correctional home even after completion of sentence in the year 2017 but neither he has been repatriated nor he has been released from the correctional home.
10. The Welfare Officer of Dum Dum Central Correctional Home by a letter dated 23rd December, 2025 has informed the Superintendent of Dum Dum Central Correctional Home, Kolkata that if the petitioner is released from correctional home, he will reside with one Rintu Monal son of Abdul Aziz Mondal vill: Khurigachi, Land Mark – near Goldarpara Anganari School, PO: Bhodai, PS: Amdanga, N. 24 PGS., W.B.

11. The petitioner has produced the said report before this Court at the time of hearing. On receipt of the said report, this Court directed the State as well as the FRRO to verify the address of the person furnished by the petitioner through the Welfare Officer of Dum Dum Central Correctional Home whether he is a reliable person and the petitioner can be released on bail if the petitioner will reside in the address mentioned above.
12. As per the direction passed by this Court, the State submitted report stating that Rintu Mondal is a habitual offender and at least six criminal cases are registered against him and the state has objected that if the petitioner is allowed to reside with the said Rintu Mondal, there is every apprehension that the petitioner will again commit an offence with Rintu Mondal.
13. The learned DSGI has submitted that the condition for release on bail as indicated in the order passed by the Hon'ble Supreme Court cannot be read in isolation. He submits that the Hon'ble Supreme Court has passed several directions imposed several responsibility of the State of West Bengal but till date the State of West Bengal has not come forward with any report whether the State has made any arrangement for keeping the migrant in a correction home or detention centre.
14. He further submitted that in the order of the Hon'ble Supreme Court, it is categorically mentioned that the State of West Bengal has made a statement before the

Hon'ble Supreme Court that the separate correctional home/detention centre is likely to be completed within a period of six months but till date no report is filed.

15. He further submits that the petitioner is a Mayanmaree national and if the petitioner is allowed to go on bail, there is every apprehension that he will commit a further offence and will disturb the peace of State of West Bengal.
16. The learned DSGI has filed a report praying for time to file a detailed affidavit within a period of four weeks from date.
17. Heard the learned Counsel for the respective parties and perused the materials on record. Admittedly the petitioner is a Mayanmaree national and he was apprehended by the police for the offence under Section 14 of the Foreigners Act.
18. The petitioner has pleaded guilty before the learned Trial Court and was sentenced to suffer simple imprisonment for one year and three months on 3rd May, 2017.
19. The petitioner has completed his sentence in the year 2017 itself but there is no facility of detention home/correctional home in the State of West Bengal and as such the petitioner is detained in the correctional home itself.
20. Now, the matter is pending before the Hon'ble Supreme Court with regard to the construction of the correctional home/detention centre.

21. Now, the question before this Court that whether the petitioner can be released on bond in terms of the order dated 13th May, 2025 passed by the Hon'ble Supreme Court. Considering the judgment passed by the Hon'ble Supreme Court, address furnished by the petitioner was referred to the State as well as the FRRO for verification of the address and credibility of one Mr. Rintu Mondal.
22. The State authority has verified the address and credibility of Mr. Rintu Mondal and found that he is having several criminal antecedents under such circumstances this Court did not find any reason to allow the petitioner to reside in the house with Rintu Mondal. The petitioner subsequently furnished other two addresses namely, Reyab Ali Molla son of Rahim Molla vill: Neotala, Land Mark – Mudi Dokan, P.O: Botaran, P.S: Joynagar, S. 24 PGS., W.B. and another person namely, Masura Khatun daughter of Dr. Daud Ali Molla, Vill: Raghunath Pur, Land Mark – Raghunath Pur School Bari, P.O: Raghunath Pur, P.S: Matiya, N. 24 PGS., W.B. The State authority has also verified the said addresses of the said two persons and after verification, a report is submitted before this Court wherein it reveals that when Reyab Ali Molla lodged at Dum Dum Correctional Home, he acquainted with the petitioner. Reyab Ali Molla has categorically stated before the authority at the time of inquiry that he is not willing to keep the petitioner at his residence. As regard the

inquiry of Masura Khatun, it is found that she has categorically stated before the authority at the time of inquiry that she does not know any person in the name of Faridul Alam and she could not recognize him.

23. Considering the report, this Court found that the two persons' name which has been provided by the petitioner is also not ready to allow the petitioner to reside in their house.
24. Considering the above, this Court has no other options but to reject the application. It is true that the petitioner has completed the sentence in the year 2017 but the petitioner is a foreign national, cannot be allowed to go freely as Indian Citizen and if he is allowed to go free only furnishing bond, there is every apprehension that either he will flee away from India illegally or he will further commit any offence in India.
25. It is further made clear that this order will not prevent the petitioner to make further application if the petitioner will find any person who is ready to keep the petitioner in his residence whose credibility is good.
26. Considering the above, the writ petition being WPA 28472 of 2024 filed by the petitioner Faridul Alam, is accordingly dismissed.

In Re: WPA 9182 of 2025

27. The Welfare Officer has submitted a letter to the Superintendent of Dum Dum Central Correctional Home on 23.12.2025 intimating that if the petitioners, namely,

Tasleeman Ara & Safikul Islam, are released on bail, petitioners will reside in the house of one Injamul Haque Tarafdar son of Mosatafa Tarafdar, vill: Kolsur, (land Mark – Mudi Dokan), PO: Kolsur, PS: Deganga, N. 24 PGS., PIN – 743438, W.B. On receipt of the said details, this Court has directed the State as well as the FRRO to verify the address furnished by the petitioners, if the petitioners are released on bail, they can reside in the house of Injamul Haque Tarafdar.

28. The State has submitted the report informing that on inquiry it was found that Injamul Haque Tarafdar is residing in the said address for long and no discrepancy has been noted during the inquiry.
29. The learned ASGI has raised objection and submitted that though the State has filed the report that the petitioners can reside in the house of Injamul Haque Tarafdar but the State has not filed any report whether there is any apprehension that the petitioners will flee away from India illegally or whether the petitioners will commit any further offence.
30. The ASGI filed affidavit praying for four weeks time to file the detailed affidavit.
31. Heard the learned counsel for the respective parties, this Court find that the Hon'ble Supreme Court in the judgment dated 13th May, 2025 has categorically stated that if any illegal migrant as on date in any of the prison within the State of West Bengal who was undergone the

entire sentence and is still confined in any of the prison, passed three years from the date of completion of his/her original sentence, he/she shall be released subject of conditions as recorded in the order dated 13th May, 2025.

32. Considering the above, this Court finds that the petitioners are convicted by an order dated 3rd May, 2017 and since then the petitioners are in custody. The petitioners have completed their sentence in the year 2017 itself now we are on 2026 admittedly the State has not made any provisions for correctional home/detention centre for the illegal migrants.
33. The petitioners have furnished the detailed address of the persons if the petitioners are released on bail, the petitioners will reside in the said address. The same has been verified by the State authority and submitted report before this Court.
34. The ASGI further submits that if paragraph 17 of the Hon'ble Supreme Court order is read in isolation, even then as per Clause (b) of paragraph 17 of the said order, the FRRO is required to verify the address. The address furnished by the petitioners were forwarded to the State as well as the FRRO, State has submitted the report but the FRRO has not submitted any report for the last two dates.

35. This Court has directed the authority to verify the address of the persons concern but till date the FRRO has not submitted the verification report.
36. Accordingly, this Court has no alternative but to accept the report of the State. The petitioners are released on bail subject to the following conditions:-
- (a) The petitioners shall furnish bond of two sureties of Rs.1,00,000/- (rupees one lakh) each of the Indian citizen.
 - (b) The petitioners shall furnish their address of stay to the concern police station as well as to the FRRO within 24 hours from release from correctional home.
 - (c) Biometrics of the petitioners iris (if possible) and all 10 finger prints and photos shall be captured and stored in a secured data base before release from the correctional home. The petitioners shall report once in every week to the local police station specified by the FRRO where the petitioners reside.
 - (d) The petitioners shall notify any change of their address to the specified police station.
 - (e) A quarterly report to be submitted by the Superintendent of Police (Border) to the FRRO regarding appearance of such released declared by the foreigners to the concerned police station and in case of violation of the conditions the

petitioners shall be apprehended and produced before the learned jurisdictional Magistrate for appropriate action.

The sureties bond, if any, furnished by the petitioners shall be accepted with the satisfaction of the learned Trial Court.

37. Considering the above, the writ petition being WPA 9182 of 2025 filed by the petitioners, namely, Tasleema Ara and Safikul Islam, is accordingly disposed of.
38. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Krishna Rao, J.)