

IN THE HIGH COURT AT CALCUTTA
Criminal Appellate Jurisdiction
Appellate Side

CRA (DB)/360/2025

Mansur Ali @ Mansur Seikh @ Mansur SK @ Machuur Ali
V.
The State of West Bengal

Before: The Hon'ble Justice Arijit Banerjee
&
The Hon'ble Justice Apurba Sinha Ray

For the appellant : Mr. Sabyasachi Banerjee, Sr. Adv.
Ms. Diksha Ghosh, Adv.

For UOI (NIA) : Mr. Arun Kr. Maiti (Mohanty), Spl. PP., NIA.
Mr. Bhaskar Prosad Banerjee, Spl. PP., NIA.
Mr. Debayan Sen, Spl. PP., NIA.
Mr. Debasish Tandon, PP., NIA.
Ms. Deeba Nomani, Adv.

Judgment On : 05.05.2026

Arijit Banerjee, J.:-

1. The appellant renews his prayer for bail which was earlier rejected by this Court on March 17, 2025.
2. The appellant says that he is in custody for two years eight months. Only one out of 102 prosecution witnesses has been examined till date and that too, in part. All the other accused persons are on bail. The petitioner stands on the same footing or better footing than those persons.
3. The prosecution claims that the appellant along with 6 other persons were involved in mass scale manufacture of bombs in aid of terrorist activities. Out of the 7 accused persons, one person died due to a bomb

blast in the process of manufacturing bombs. Charge sheet has been filed under various provisions of IPC, Explosive Substances Act, 1908 and Unlawful Activities (Prevention) Act, 1967 UA(P) Act.

4. Learned Senior Counsel representing National Investigation Agency (NIA) strongly opposes the prayer for bail. He says that the charges are serious. The unlawful activities that the accused persons were indulging in is against the interest of national security. Section 43D (5) of the UA(P) Act is a bar to grant of bail.
5. It is submitted that for unavoidable reasons on a few occasions the prosecution had to seek adjournment before the Trial Court. There is no intentional or deliberate delay in proceeding with the trial. 102 witnesses will definitely not be examined. The number will be pruned down. The trial will definitely conclude within 10 months. The bail prayer should not be allowed. In any event, the prosecution should be permitted to examine the six protected witnesses before this Court may consider granting bail to the petitioner.
6. Learned Counsel for NIA relied on the decision of the Hon'ble Supreme Court in the case of ***Gulfisha Fatima v. State (Govt. of NCT of Delhi)***, ***reported at 2026 INSC 2.***
7. Having considered the rival contentions of the parties, we are inclined to allow this appeal for the following reasons: -
 - (i) From the charge sheet filed by NIA we find that the charges brought against all the six accused persons who are facing trial are similar. In fact, the charges against accused no. 1 (Imdadul Hoque @ Imdarul Hoque @ Anaj Master) are under sections 120(B), 201 and 304 of IPC,

Sections 4, 5 and 6 of Explosive Substances Act, 1908 and Section 18 of UA(P) Act, 1967. The charges against the appellant are under identical provisions of law.

(ii) All the other accused persons including Imdadul Hoque, are on bail. While Imdadul has been granted bail by this Court, the other accused persons being Sukchand Ali, Mansur Ali, Masadul Hoque, Habibur Rahaman and Md Tahabul Sk were enlarged on bail by the learned Trial Court.

(iii) In the charge sheet NIA has described Imdadul as the main conspirator. It is alleged that he criminally conspired with the co-accused persons. The present petitioner has been described as a co-conspirator. Therefore, if Imdadul has been granted bail, there can be no legitimate reason to deny such privilege to the present petitioner.

(iv) It is not in dispute that there are 102 charge sheet named witnesses. It is also an admitted position that only one prosecution witness has been examined till date and that too, in part. Although learned Advocate for NIA wants us to believe that the trial will conclude within ten months, we are unable to attach much credence to such submission. Going by the fact that over the last eight months only one prosecution witness has been examined in part, it is highly improbable that even by pruning down the number of witnesses from 102, the prosecution will be able to conclude the trial within ten months or even one year.

(v) We see that charge was framed on July 14, 2025. Thereafter, on August 11, 2025, September 3, 2025 and September 9, 2025, the

matter had to be adjourned either because the presiding officer was busy with other work or he was absent or the NIA sought adjournment. September 11, 2025, was fixed for recording evidence. On the date, CSW 1 was absent and hence the trial was adjourned. On December 5, 2025, again CSW 1, failed to attend Court and the trial was adjourned. For the same reason, on January 19, 2026, the trial was adjourned. The examination of CSW 1 started on February 12, 2026, and he was examined in part. On March 5, 2026, again the trial was adjourned as CSW 1 was unable to attend Court. The trial has now been fixed on May 12, 2026.

Therefore, at the pace and in the manner the trial is proceeding, it is anybody's guess as to when the trial will conclude. The petitioner is in custody already for 2 years 8 months. He cannot be kept in incarceration indefinitely without convicting him when nobody can tell when the trial will end.

(vi) In this connection we may refer to the decision of the Hon'ble Supreme Court in ***Union of India v. K.A Najeer reported at (2021) 3 SCC 713***. It was held that where the trial is not likely to conclude within a reasonable period, constitutional courts retain the jurisdiction to grant bail notwithstanding statutory restraints. That decision operates as a protection against unwarranted and unconscionable detention.

(vii) It is also well established that a fundamental right of a citizen under Article 21 of the Constitution overrides any statutory restriction

on grant of bail whether under Section 43D(5) of the UA(P) Act or under Section 37 of the NDPS Act, 1985 or the like.

8. We have considered the decision of the Hon'ble Supreme Court in the case of ***Gulfisha Fatima v. State (Govt. of NCT of Delhi), Supra.*** Learned Counsel for NIA relied on the decision in support of his submission that the plea of parity is misconceived and unsustainable. Bail jurisprudence mandates an assessment of individual role and parity cannot be claimed mechanically. We agree with the proposition. However, in the present case, we have decided to grant bail not on the ground of parity only.

9. We are also not impressed by NIA's submission that the matter of granting bail to the petitioner should be considered only after examination of the 6 protected witnesses of the prosecution is complete. NIA is resourceful enough to protect its 'protected witnesses' and ensure that their identity is not disclosed.

10. For the aforesaid reasons, we allow this application.

11. The petitioners namely Mansur Ali @ Mansur Seikh @ Mansur SK @ Manchuur Ali may find bail of Rs. 50,000/- with two sureties of Rs. 25,000/- each and out of which one must be local, subject to the satisfaction of learned Chief Judge, City Sessions Court, Calcutta and also on following terms and conditions: -

- i. That the petitioner shall remain within the jurisdiction of New Town PS, Kolkata excepting for the purpose of attending Court.
- ii. He shall also intimate the learned Trial Court and the designated officer his address under New Town P.S. Kolkata where he will be residing at present.

- iii. He shall attend the Trial Court on each and every date of hearing.
- iv. He shall be allowed to use two mobile numbers and he shall inform the learned Trial Court and the designated Officer of NIA the said two numbers.
- v. The NIA shall be entitled to monitor his calls.
- vi. The NIA shall be entitled to keep a vigil on the petitioner.
- vii. No person other than close relatives, doctors, learned advocates shall be allowed to meet the petitioner.
- viii. The petitioner shall meet the IC, New Town P.S. once a week.
- ix. The petitioner shall not intimidate, influence any witness including protected witnesses either directly or indirectly through his agents.
- x. In default of any of the conditions, the bail granted to him shall stand cancelled without any reference to this Court.

12. We clarify that the observations made by us in this judgment are only for the purpose of disposing of the appeal and the same shall have no bearing on the trial.

13. The appeal being CRA (DB)/360/2025 is accordingly disposed of.

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

I agree.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)