

30.06.2026
Court No.35.
D/L.636&637.
Kausik& Rakib
(Rejected)

C.R.M. (M) 2666 of 2025

In Re: An Application for bail under Section 439 of the Code of Criminal Procedure, 1973 corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with STF Police Station Case No. 31 of 2022 dated 13.10.2022 under Sections 120B/489C of the Indian Penal Code read with Sections 25(1AA)/25(1B)(a)/29/35 of the Arms Act.

And

In the matter of : Vicky Prasad @ Vickey Prasad.

.....Petitioner.

With

C.R.M. (M) 2715 of 2025

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure, 1973 corresponding to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed in connection with STF Police Station Case No. 31 of 2022 dated 13.10.2022 under Sections 120B/489B/489C of the Indian Penal Code read with Sections 25(1AA)/25(1B)(a)/29/35 of the Arms Act.

And

In the matter of : Md. Imtiyaz @ Abbu.

.....Petitioner.

Mr. Sandipan Ganguly, Sr. Adv.,
Mr. Arkadeb Bhattacharya,
Mr. Sumon Kumar Datta

... For the Petitioner in CRM(M)/2666/2025.

Mr. Debapriya Majumder

... For the Petitioner in CRM(M)/2715/2025.

Mr. Kallol Mondal, Ld. PP,
Mr. Rajendra Banerjee, Ld. APP,
Mr. Suman Chakraborty

... For the State in CRM(M)/2666/2025.

Mr. Kallol Mondal, Ld. PP,
Mr. Rajendra Banerjee, Ld. APP,
Mr. Bhaskar Seth

... For the State in CRM(M)/2715/2025.

In Re: C.R.M. (M) 2666 of 2025

Learned Senior Advocate appearing for the petitioner argued that petitioner was implicated in connection with the instant case on the basis of information received at about 11.50 p.m. on 12.10.2022, to that effect two accused persons namely, Md. Imtiyaz @ Abu and Md. Sahil Mallik were apprehended when the present petitioner along with another namely, Indrajeet Sharma were gossiping with them. In course of search and seizure the investigating agency claims to have unearthed 50,000/- of FICN from Md. Imtiyaz @ Abu, one country made improvised arms, semi automatic iron made carbine machine gun along with iron butt and 2 iron made magazines were recovered. From the possession of Md. Sahil Mallik, a mobile phone and cash of Rs. 705 INR were found. From the accused/Indrajeet Sharma 6 pieces of semi finished improvised pistols were recovered and from possession of the present petitioner, i.e. Vicky Prasad, 4 iron made semi finished improvised pistols and cash of Rs. 300 INR were recovered. All the accused persons were arrested on 13.10.2022 at 5.15 a.m.

Learned senior advocate draws the attention of the Court to the definition of 'Prohibited Arms' as appearing in Section 2(i) of the Arms Act, 1959 and emphasizes that the definition do not within its ambit, incorporate semi finished improvised pistol and as such the charges which have been framed against the present petitioner do not have any foundation and in spite of the same, the petitioner is in custody for 3 years and 9 months. Till date, according to the petitioner, only 3 witnesses have been examined, although the prosecution has relied upon 12 witnesses. The petitioner did not

contribute to any delay and the prescribed punishment, in majority of the offences for which the petitioner has been charged, do primarily exhaust the period of incarceration already suffered by the present petitioner.

Mr. Mondal, learned Public Prosecutor appearing for the State opposes the prayer for bail and submits that there was initial search and seizures and subsequently a factory was unearthed at Munger, Bihar pursuant to the leading statement of one of the accused person. No delay has been contributed by the State and it is because of the cross-examination of each of the accused persons which have been lengthy, time has been consumed. State has been and would be putting in efforts for taking the trial to its logical conclusion at the earliest possible opportunity.

I have taken into account the submission of the learned advocate for the petitioner as well as that of the State. The main contention of the learned Advocate for the petitioner relate to the ingredients of 'prohibited arms' as defined under Section 2(i) of the Act which is the basis on which present accused, Vicky Prasad @ Vicky Prasad i.e. the petitioner cannot be charged under Section 25(1AA). Section 25(1AA) definitely refers to 'Prohibited Arms' or 'Prohibited Ammunition'. However, the term 'Fire Arms' has been used within the definition of Section 2(i).

It would not be out of place to state that the term 'Fire Arms' has also been defined under Section 2(e) of the Act which incorporates within its ambit at Section 2(e)(ii) and 2(e)(iii) :-

“(ii) accessories for any such firearms designed or adapted to diminish the noise or flash caused by the firing thereof,

(iii) parts of, and machinery for manufacturing firearms, and”

Having considered that, semi finished improvised pistols were recovered from the possession of the present petitioner, I am of the opinion that, at this stage, it would be too premature to hold that Section 25 (1AA) of the Arms Act will not apply in the present case.

In view of the observations above and the prescribed punishment under Section 25(1AA) is one which may extend to imprisonment for life, I am of the opinion that, having regard to the gravity of the present offence, the quantity of huge fire arms recovered in the present case, mere period of detention will not have an overwhelming effect.

As such, considering the volume of seizures which have been effected by the present case, with regard to arms and ammunitions, I am of the opinion that, until and unless all the seizure list witnesses are examined, it would not be fit and proper to release the petitioner on bail.

As such, the prayer for bail of the petitioner in CRM (M) 2666 of 2025 is **dismissed**.

However, having regard to the fact that the petitioner is in custody for 3 years and 9 months, learned Trial Court would fix a

schedule of dates in each and every month thereby taking the trial to its logical conclusion as expeditiously as possible.

In Re: C.R.M. (M) 2715 of 2025

Learned advocate appearing for the petitioner submits that the petitioner is in custody for three years nine months, there has been no delay contributed by the present petitioner and in spite of co-operating with the trial Court unnecessarily he is languishing in jail. Only 3 witnesses till date have been examined by the prosecution and there has been no efforts exerted by the prosecution to complete the deposition of the relevant witnesses. Additionally, it has been submitted that the manner in which search and seizures were carried by the investigating agency from the inception a very hazy picture is portrayed and the subsequent seizures were made to cause prejudice without the same having any admissible evidentiary value in the eye of law.

Learned Public Prosecutor draws the attention of the Court to the each and every seizures which have been effected in the present case, particularly, with regard to the subsequent seizures at Munger, Bihar, wherein there was a factory for manufacturing of illegal arms. Emphasis was laid on the fact that fake currency was also recovered from these petitioners. Petitioner is at the helm of affairs of running such illegal arms factory and as such the release of the petitioner would jeopardize whole of the trial. It was also submitted that prosecution on each and every date has been ready with the witnesses concerned, except for few occasions but because of the lengthy cross-examination which has taken place and for

systematic delay the trial of the case could not reach at its ultimate stage.

I have heard the learned advocate appearing for the petitioner as well as the State and on an assessment of the same I am of the opinion that since the charges under Section 25(1AA) of the Arms Act has been framed against the accused and there are huge volume of seizures including a factory being located along with fake currency recovered in the present case from the present petitioner, as such without the same being rebutted by the petitioner in cross-examination, at this stage it will not be possible for this Court to only weigh on the period of incarceration for releasing him on bail.

As such the prayer for bail of the petitioner in CRM (M) 2715 of 2025 is **dismissed**.

However, having regard to the fact that the petitioner is in custody for 3 years and 9 months, learned Trial Court would fix a schedule of dates in each and every month thereby taking the trial to its logical conclusion as expeditiously as possible.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)