

**In the Court of the Chief Judge,
City Sessions Court, Bichar Bhawan, Calcutta.**

Present: **Shri Siddhartha Kanjilal**
JO Code No: – WB01057
Chief Judge, City Sessions Court, Calcutta.

Sessions Trial No. 02 (07) of 2022

Sessions Case No. 12 of 2020

CNR – WBCS01-000290-2020

(S.T.F Case No. 01 dated 02.02.2018 under sections 121A/467/474/120B of the Indian Penal Code, read with Section 4 and 5 of the Explosive Substances Act, Section 18 and 20 of the Unlawful Activities Prevention Act and 14A(b) of the Foreigner's Act)

The State of West Bengal

.....prosecution.

Vs.

**Accused no. (A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @
Izaj @ Md. Yousuf**

..... Accused Person.

(Charges under sections 121A/120B of the Indian Penal Code, read with Section 4 and 5 of the Explosive Substances Act, Section 18 and 20 of the Unlawful Activities Prevention Act)

Ld. Advocates for the Prosecution/ State :

1. Shri Ganesh Chandra Maity (Ld. Senior P.P)
2. Shri. Debtanu Dutta (Ld. Junior P.P)

Ld. Advocate for the Accused Person i.e (A-21) :

Fazle Ahmed Khan

Order no. 34 dated 04.11.2022

Today is fixed for production of the accused person, namely **(A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf** before this Court in physical mode and hearing of the petition dated **28.09.2022** filed by the accused person praying for pleading guilty.

Accused person namely, **(A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf** is produced from J.C in physical mode.

Ld. P.Ps for representing the State and Ld. Advocates for the accused person are present at the time of hearing.

Hazira filed on behalf of State.

Heard the accused person, Ld. Advocates of the State and Ld. Advocate for the accused person.

Perused the record and the relevant documents from where this Court finds that :-

On 02.02.2018 a complaint was lodged by Assistant Commissioner of police, STF, DD, Kolkata and the same has been registered as STF P.S case no. 1 of 2018 dated 02.02.2018 under section 120B/121/121A/123/125 of the Indian Penal Code stating *inter alia* that during investigation of STF P.S case no. 08 dated 29.11.2017, one of the accused Md. Paigambar Sk who was in police custody disclosed his association with Jammat-Ul-Mujahideen, Bangladesh, in short JMB, and in collusion with Salauddin Salehi, the head of the said Organization and other activists namely, Kausar @ Boma Mizan of Bangladesh, Mintu of Bangladesh, Mustafiaur Rahaman @ Tuhin of Birbhum, Ezaz @ Jilul of Birbhum, Kiran of Birbhum, Asadullah @ Rana @ Bikash of Burdwan, Abdul Karim (Chhoto) of Murshidabad, Adil of Murshidabad, Shish Mohammad of Murshidabad, Umar @ Ali Hassan of Kaliachawk, Malda Ahmed Ali @ Kalu of Dhuliya, Murshidabad, Ataur of Assam and others have conspired to launch terrorist attack on the Buddhist religious leaders, Monasteries, other communities, Government establishments in India and adjoining countries like Bangladesh and Myanmar for taking vengeance against the oppression allegedly inflicted upon Rohingya Muslims by the Myanmar Government Troops for the last couple of months in Arakan areas adjoining to its border with Bangladesh and against the oppression upon Muslims in Kashmir and other parts of India and also the police of Bangladesh Government for taking stern action against JMB activists.

It also transpires from the record that as per statement of Md. Paigambar Sk, an attempt had already been taken on the Buddhist leader Dalai Lama at Buddha Gaya by causing serial blasts of IED on 19.01.2008.

Record further reveals that in order to fulfill the organizational agenda of JMB and pursuant to that conspiracy the above named accused persons had already procured huge quantity of explosive materials and instruments required for manufacturing of IED and kept those incriminating articles concealed in different places of Samsrganj,

Murshidabad for carrying out more subversive activists in future.

In pursuance of disclosing statement made by accused Shish Mohammad (A-1) and being led and pointed by him some documents from the house of this accused along with a hand writing note were seized on 15.02.2018.

After investigation the I.O of this case was satisfied that as per materials collected, all these accused persons being the members/supporters/sympathizer/activists of JMB, a banned terrorist organization in Bangladesh entered into a criminal conspiracy with each other to wage war against the Government of India, Government of Bangladesh and the Government of Myanmar, in order to fulfill their organizational agenda and pursuant to that conspiracy for waging war against the aforesaid governments and they procured huge quantity of explosive materials and instruments required for manufacturing of IED's in concealed design to carry out subversive activities and for which the I.O submitted charge sheet against this accused person **(A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf** along with other accused persons under sections **121/121A/123/124A/125/120B of the Indian Penal Code, read with sections 4/5/6 Explosive Substances Act and sections 17/18/18A/19/20/21/23 of the Unlawful Activities (Prevention) Act.**

After perusing the case record, this court finds that all the accused persons being the members/supporters/sympathizer/activists of JMB, a banned terrorist organization in Bangladesh entered into a criminal conspiracy with each other to wage war against the Government of India, Government of Bangladesh and the Government of Myanmar, in order to fulfill their organizational agenda and pursuant to that conspiracy for waging war against the aforesaid governments and they procured huge quantity of explosive materials and instruments required for manufacturing of IED's in concealed design to carry out subversive activities and so there is sufficient ground to form charge against all the accused persons.

The I.O has also submitted charge sheet on 01.05.2018 being charge sheet no. 02 of 2018 u/s 120B/121/121A/123/125 of the I.P.C along with section 4 and 5 of the Explosive Substances Act against the four accused persons namely, Shish Mohammad (A-1), Ahammad Ali @ Kalu, Nur Alam Momin @ Noor Alam @ Alam and Md. Paigambar Sk.

The I.O has also submitted first supplementary charge sheet on 18.06.2018 being charge sheet no. 05 of 2018 u/s 120B/121/121A/123/125 IPC against the four accused persons namely, Shish Mohammad (A-1), Ahammad Ali @ Kalu, Nur Alam Momin @ Noor Alam @ Alam and Md. Paigambar Sk.

Then on 07.09.2018 the I.O has also submitted the second supplementary charge sheet being charge sheet no. 10 of 2018 u/s 120B IPC r/w sections 4 & 5 of Explosive Substances Act against two accused persons namely, Hazibulla and Liakat Sk.

Again on 03.11.2018, the I.O submitted the third supplementary charge sheet being charge sheet no. 14 of 2018 u/s 120B/121/121A/123/125 IPC r/w section 4 & 5 of Explosive Substances Act against five accused persons namely, Hazibulla, Liakat Sk, Md. Dilwar Hossain @ Umar @ Nurul @ Ali Hossain, Abdul Majid and Abdur Rajjak.

On 23.02.2019 the I.O has also submitted the fourth supplementary charge sheet being charge sheet no. 09 of 2019 u/s 120B/121/121A/122/123/125 IPC r/w section 14 of Foreigners Act against four accused persons namely, Jaidul Islam @ Kausar @ Boma Mizan, Mustafijur Rahman @ Tuhin @ Sahin @ Shakil, Abdul Karim @ Karim Sk. @ Iqbal and Adil Sk. @ Abdullah @ Asadulla @ Ajit Sk.

I.O has also submitted the fifth supplementary charge sheet on 27.04.2019 being charge sheet no. 16 of 2019 u/ss. 124A IPC r/w section 6 Explosive Substances Act against eighteen accused persons namely, Shish Mohammad (A-1), Ahammad Ali @ kalu, Nur Alam Momin @ Noor Alam @ Alam, Paigumber Sheikh @ Abdul Aziz, Hajibullah, Liakat Sk (A-6)., Dilwar Hossain @ Umar @ Nurul @ Ali Hassan, Abdul Majed, Abdur Rajjak, Jaidul Islam @ Kausar @ Boma Mizan, Mustafijur Rahman @ Tuhin @ Sahin @ Shakil, Abdul Karim @ Karim Sk. @ Iqbal, Adil Sk. @ Abdullah @ Asadulla @ Ajit Sk., Abdul Matin, Manirul Islam, Kader Kazi @ Kadar Kazi @ Mizanur Rahaman @ Harun Mondal, Ariful Islam @ Arif @ Aatur @ Aktarul @ Mota Anaz @ Sahid, Asif Iqbal @ Nadim.

Sixth supplementary charge sheet was filed on 09.07.2019 by the I.O being charge sheet no. 30 of 2019 u/ss. 18/18A/19/20/21/23 UA(P) Act against eighteen accused persons namely, Shish Mohammad (A-1), Ahammad Ali @ kalu, Nur Alam Momin @ Noor Alam @ Alam, Md. Paigumber Sheikh @ Abdul Aziz, Hajibullah, Liakat Sk, Dilwar Hossain @ Umar @ Nurul @ Ali Hassan, Abdul Majed, Abdur Rajjak, Jaidul Islam @

Kausar @ Boma Mizan, Mustafijur Rahman @ Tuhin @ Sahin @ Shakil, Abdul Karim @ Karim Sk. @ Iqbal, Adil Sk. @ Abdullah @ Asadulla @ Ajit Sk., Abdul Matin, Manirul Islam, Kader Kazi @ Kadar Kazi @ Mizanur Rahaman @ Harun Mondal, Ariful Islam @ Arif @ Ataur @ Aktarul @ Mota Anaz @ Sahid, Asif Iqbal @ Nadim.

Seventh supplementary charge sheet was submitted on 28.09.2019 by the I.O being charge sheet no. 44 of 2019 u/s 120B/121/121A/123/124A/125/467/474 IPC r/w sections 4/5/6 of Explosive Substances Act r/w sections 17/18/18A/19/20/21/23 of UA(P) Act against one accused person namely, Abdur Rahim.

The I.O has also submitted the eighth supplementary charge sheet on 17.03.2020 being charge sheet no. 16 of 2020 u/s 120B/121/121A/123/124A/125 IPC r/w sections 4/5/6 of Explosive Substances Act r/w sections 17/18/18A/19/20/21/23 of UA(P) Act against one accused person namely **(A-21) Izaz Ahmed @ Moti Ahmed @ Jitu @ Izaz Md. Yusuf.**

Lastly, on 30.11.2020 the I.O has also submitted the ninth supplementary charge sheet being charge sheet no. 60 of 2020 u/s 120B/121/121A/122/123/124A/125 IPC r/w sections 4/5/6 of Explosive Substances Act r/w sections 17/18/18A/19/20/21/23 of UA(P) Act against one accused person namely, Sk. Riajul @ Kiran @ Rutu.

The main allegation against the accused persons is that they in collusion with each other have conspired to launch terrorist attack on the Buddhist religious leaders, Monasteries, other communities, Government establishments in India and adjoining countries like Bangladesh and Myanmar for taking vengeance against the oppression allegedly inflicted upon Rohingya Muslims by the Myanmar Government Troops for the last couple of months in Arakan areas adjoining to its border with Bangladesh and against the oppression upon Muslims in Kashmir and other parts of India and also the police of Bangladesh Government for taking stern action against JMB activists.

It also transpires from the C.D that as per statement of Md. Paigambar Sk that an attempt had already been taken on the Buddhist leader Dalai Lama at Buddha Gaya by causing serial blasts of IED on 19.01.2008.

C.D further reveals that in order to fulfill the organizational agenda of JMB and pursuant to that conspiracy the above named accused persons

had already procured huge quantity of explosive materials and instruments required for manufacturing of IED and kept those incriminating articles concealed in different places of Samsorganj, Murshidabad for carrying out more subversive activists in future.

The documents as reflected in the C.D also reveals that these accused persons are the members of a terrorist gang or terrorist organization which is involved in the terrorist activities have conspired and abets and advised to perform an act which is terrorist in nature.

The prosecution also submitted charge sheet against all twenty one accused persons under section 6 of the Explosive Substance Act and section 4/5 of the Explosive Substance Act against Hazibulla, Liakat Sk, Md. Dilwar Hossain @ Umar @ Nurul @ Ali Hossain, Abdul Majid, Abdur Rajjak, Izaz Ahmed @ Moti Ahmed @ Jitu @ Izaz, Md. Yusuf, Sk. Riajul @ Kiran @ Rutu and Abdur Rahim

C.D reveals that huge explosives have been recovered from house of the accused persons and those substances were not kept in accordance with law.

Accumulation of huge quantity of explosive substance from the house of the accused persons, though not all are sufficient to hold that those substances were kept to cause explosion which may endanger human life and possessing of huge quantity of explosive substance without any licence is sufficient to give reasonable suspicion.

Prosecution has also submitted charge sheet against accused namely, Jaidul Islam @ Kausar @ Boma Mizan, Mustafijur Rahman @ Tuhin @ Sahin @ Shakil, Abdul Karim @ Karim Sk. @ Iqbal and Adil Sk. @ Abdullah @ Asadulla @ Ajit Sk. under section 14 of the Foreigners Act, 1948.

Charges under sections 121A/120B of the Indian Penal Code, 1860 read with section 4 and 5 of the Explosive Substances Act and 18/20 of the Unlawful Activities Prevention Act were framed against this accused **(A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf** along other accused persons on **21.07.2022**.

The charges were read over and explained to all the accused persons to which they abjured their guilt and claimed to be tried. Hence, this trial.

Defence case was that the accused person did not commit any such offence as alleged and he has been falsely implicated in this case.

After framing of charge, this accused person **(A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf** pleaded guilty by filing a petition on **28.09.2022**.

It reveals from the from the petition filed on behalf of the above mentioned accused person on **28.09.2022** stating inter alia that **(A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf** is in custody more than three years and two months (**24.09.2019**) and he is repentant on his misdeeds and now he wants to plead guilty.

On the basis of the petition filed on **28.09.2022**, this court has asked the accused person the reason for filing the petition and the accused persons stated in the open court voluntarily that he is repenting for his offences and he wants to plead guilty and return back to the mainstream after serving the sentences. The accused person also stated that he was not forced to file the petition for pleading guilty and he has filed the same on his own volition.

This court has also apprised this accused person the consequences of pleading guilty as the allegations against him is serious in nature and charges framed against him has the maximum punishment i.e. imprisonment for life and gave him sufficient time to rethink over the matter.

On the next date of production, this accused person uttered the same words and stated that he wants to plead guilty and he is aware of the consequences.

At this stage, this Court again apprised this accused person that pleading guilty tantamounts to the admission of the charges leveled against him and he can only challenged the quantum of punishment before the upper Court to which this accused person again submitted that still then he wants to plead guilty.

Now the question arises whether accused person can plead guilty in the midst of trial when he has already pleaded not guilty at the time of framing of charge.

Section 229 of Chapter XVIII of the Code of Criminal Procedure, 1973, empowers the accused person to plead guilty before the Court of Sessions Judge.

This Court i.e. the Court of Ld. Chief Judge, City Sessions Court, Calcutta is a Sessions Court and power has been conferred to the Ld.

Judge of the said court to try cases of N.I.A.

Section 229 of Cr.P.C. reads as follows:

Conviction on Plea of Guilty:- *'If the accused pleads guilty, the judge shall record the plea and may, in his discretion, convicting.'*

So it is crystal clear that the accused can plea guilty before the Sessions Court as per section 229 of Cr.P.C.

The Hon'ble Division Bench of Allahabad High Court in the case of Ram Kishun Vs. State of Uttar Pradesh held that *'there is no reason restrict the applicability of section 229 of the Code of Criminal Procedure to a particular date or occasion but the purport of section is obvious that plea of guilty can be advanced by an accused at any stage of trial after framing of charge.'*

The Hon'ble High Court, Calcutta in Snehalata Mondal vs. State of West Bengal reported in (2008) 1 CALLT 297 HC observed that *'the petitioner shall be permitted to plead guilty if so intended, but it would be the absolute discretion of the Ld. Court below to decide the question whether the court would accept an act upon such plea or not.'*

The Hon'ble Apex Court in State of Maharashtra vs. Sukhdeo Singh And Anr. reported in 1992 SCC (Cri) 705 observed that *'there is nothing in chapter VIII of the Code of the Criminal Procedure which prevents an accused from pleading guilty at any subsequent stage of trial after framing of charge but the court must act with caution and circumspection before accepting and acting on the plea of guilt and the plea must be clear, unambiguous and unqualified and the court must be satisfied that the accused has understood the nature of the allegation made against him and admits them'*.

All the above judgments clearly indicates that the accused person can plead guilty at any stage of trial and even after framing of charges before a Court of Sessions. It is fact and it is also well settled that Court must act with caution and circumspection before accepting and acting on the plea of guilty by the accused. It is also the duty of the Court to see the accused person pleading guilty is aware of the consequences of the same.

This Court has examined the accused person thrice separately on dock and the accused person was made aware of the contention of the petition and about the consequences of pleading guilty but this accused person stated that he is aware of the same.

Moreover the Ld. Advocate of the accused person stated that the accused person and also his family members repeatedly requested him to file petition for pleading guilty as the accused person is repenting on his offences and he is eager to return to the mainstream of the society and the Ld. Advocate prayed for accepting the petitions.

Ld. P.Ps of the State submitted that they have no objection if the petition filed by the accused person praying for guilty is accepted by this Court.

Prior to accepting pleading guilty of the accused person, this Court called this accused person on dock and apprised him the merits and demerits of pleading guilty.

This Court also learnt from the accused person that he has not filed the petition for pleading guilty out of fear and force but he has filed the same on his choice after having detailed discussions with his family members.

Considering all these and also considering that the accused person is aware about the contention of the petition and consequences of pleading guilty, this court accepted the petition and allowed the accused to plead guilty.

Now let us see what are the allegations leveled on each of the accused person **(A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf.**

This accused person along with other accused persons on or before 02.02.2018 being the members of banned terrorist organization namely JMB entered into criminal conspiracy with each other within India and/or outside India conspired to launch terrorist attack on the Buddhist religious leaders such as Dalia Lama at Buddha Gaya, Monasteries, other communities or wage war against Government establishments of India, Government of Bangladesh/Government of Myanmar for taking vengeance against the oppression inflicted upon Rohingya Muslims by the Myanmar Government troops by means of criminal force or show of force or collecting of explosives, explosive substances, detonators, materials to prepare IED and other incriminating articles such as Books, papers.

Moreover, all these accused persons had also acquired and/or possessed special category explosive substance viz IED in a concealed manner with intent to endanger life, or cause serious injury to property, or to enable any other person by means thereof to endanger life or cause

serious injury to property.

Not only that this accused person had also committed or attempted to commit or advocated or abetted, knowingly facilitate a terrorist act or any preparatory to commission of a terrorist act.

In pursuance of disclosing statement made by accused (A-1) Shish Mohammad and being led and pointed by him some documents from the house of this accused along with a hand writing note were seized on 15.02.2018.

A-19 had also prepared one forged Aadhar Card in the name of Jamal Sheikh and also forged one EPIC Card in his own name with intention for wrongful gain and possessed the said EPIC Card knowing to be forged with an intention to use the same as genuine.

On **21.07.2022** charges were framed against **(A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf** along with other accused persons with an allegation that the accused persons having criminal conspiracy abetted or tried to abet war against the country and also accumulated special category explosive substances i.e IED.

It is fact that on the date of hearing of the charges the accused person pleaded not guilty and the case proceeded for evidence.

However, in the midst of trial, the accused person came up with a petition for pleading guilty and the same was accepted by this court after taking all measures and precautions.

It is fact plea of guilt tantamounts to an admission of the charges leveled against him and the plea of guilt of the accused person has been accepted by this court.

Now let us see the role of the above mentioned accused person in the commission of offence.

This accused person along with other accused persons on or before 02.02.2018 being the members of banned terrorist organization namely JMB entered into criminal conspiracy with each other within India and/or outside India conspired to launch terrorist attack on the Buddhist religious leaders such as Dalia Lama at Buddha Gaya, Monasteries, other communities or wage war against Government establishments of India, Government of Bangladesh/Government of Myanmar for taking vengeance against the oppression inflicted upon Rohingya Muslims by the Myanmar Government troops by means of criminal force or show of force or collecting of explosives, explosive substances, detonators, materials to

prepare IED and other incriminating articles such as Books, papers.

Moreover, all these accused persons had also acquired and/or possessed special category explosive substance viz IED in a concealed manner with intent to endanger life, or cause serious injury to property, or to enable any other person by means thereof to endanger life or cause serious injury to property.

Not only that this accused person had also committed or attempted to commit or advocated or abetted, knowingly facilitate a terrorist act or any preparatory to commission of a terrorist act.

In pursuance of disclosing statement made by accused (A-1) Shish Mohammad and being led and pointed by him some documents from the house of this accused along with a hand writing note were seized on 15.02.2018.

A-19 had also prepared one forged Aadhar Card in the name of Jamal Sheikh and also forged one EPIC Card in his own name with intention for wrongful gain and possessed the said EPIC Card knowing to be forged with an intention to use the same as genuine.

Considering all these and also considering the materials on record, this Court convict this accused person **(A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf** invoking section 235(2) of the Cr.P.C in the following manner:-

Accused person namely, **(A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf** is convicted **under sections 121A/120B of the Indian Penal Code,1860 read with section 4 and 5 of the Explosive Substances Act and 18/20 of the Unlawful Activities Prevention Act.**

The abovenamed convict, namely, **(A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf** is remanded to J.C with a direction to be produced on **05.11.2022** for hearing on the point of sentence.

The Superintendent of Presidency Correctional Home is directed to keep the above named convict in segregation cell and produced before this Court on **05.11.2022** positively at 10.30 a.m.

Dictated and Corrected by me

Chief Judge
City Sessions Court, Calcutta

Chief Judge
City Sessions Court, Calcutta

**In the Court of the Chief Judge,
City Sessions Court, Bichar Bhawan, Calcutta.**

Present: **Shri Siddhartha Kanjilal**
JO Code No: – WB01057
Chief Judge, City Sessions Court, Calcutta.

Sessions Trial No. 02 (07) of 2022

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(S.T.F Case No. 01 dated 02.02.2018 under sections 121A/467/474/120B of the Indian Penal Code, read with Section 4 and 5 of the Explosive Substances Act, Section 18 and 20 of the Unlawful Activities Prevention Act and 14A(b) of the Foreigner's Act)

The State of West Bengal

.....prosecution.

Vs.

Accused no. (A-21) Izaj Ahmed @ Moti Ahmed @

Jitu @ Izaj @ Md. Yousuf

..... Accused Person.

(Charges under sections 121A/120B of the Indian Penal Code, read with Section 4 and 5 of the Explosive Substances Act, Section 18 and 20 of the Unlawful Activities Prevention Act)

Ld. Advocates for the Prosecution/ State :

1. Shri Ganesh Chandra Maity (Ld. Senior P.P)
2. Shri. Debtanu Dutta (Ld. Junior P.P)

Ld. Advocates for the Accused Person i.e (A-1) Shish Mohammad :

1. Abu Salim
2. Fazle Ahmed Khan

Date of Offence	2 nd day of February, 2018
Date of FIR	2 nd day of February, 2018
Date of Charge Sheet	1 st day of May, 2018 1 st supplementary charge sheet :- 18 th day of June, 2018 2 nd supplementary charge sheet :- 7 th day of Sep, 2018 3 rd supplementary charge sheet :- 3 rd day of Nov, 2018 4 th supplementary charge sheet :- 23 rd day of Feb, 2019 5 th supplementary charge sheet :- 27 th day of April, 2019 6 th supplementary charge sheet :- 9 th day of July, 2019 7 th supplementary charge sheet :- 28 th day of Sep, 2019 8 th supplementary charge sheet :- 17 th day of March, 2020 9 th supplementary charge sheet :- 30 th day of Nov, 2020
Date of Framing of Charges	21 st day of July, 2022
Date of commencement of Evidence	21 st day of July, 2022
Date on which Judgement is reserved	NIL
Date of Judgement	5 th day of November, 2022
Date of Sentencing Order, if any	5 th day of November, 2022

Accused Details

Rank of the Accused	Name of Accused	Date of Arrest	Date of release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during Trial for purpose of Section 428, Cr.P.C
A-21	Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf	24.09.2019	Custody since arrest	121A/120B IPC, 4/5 E.S Act and 18/20 UA (P) Act	Convicted	R.I for five years and six months each and fine of Rs. 2,000/-each i.d three months imprisonment each for all the offences	three years and two months

Order no. 35 dated 05.11.2022

The convict namely, **(A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf** is produced before this court at **2:00 p.m.** this day.

Convict namely, **(A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf** submits that he is aged about 33 years and belongs to a poor family has old aged widow mother, six married sister and three brothers and he studied upto twelve wants to more studies. He also submitted that he is married and four minor daughters and his wife is a seriously ill. He prays for mercy and lesser punishment, so that he can return to the mainstream of the society and live a healthy life and and his sentence can run concurrently with the other cases.

Ld. Advocate Fazle Ahmed Khan for the convict submit that convict being young had stepped into the provocation but he is repenting for his misdeeds and he prays that an opportunity be given so that the convict can atone for the misdeeds he has done and he prays for mercy.

Ld. P.Ps of Special Task Force, Shri. Ganesh Maity and Shri. Debtanu Dutta submit that the convict is repenting for his misdeeds and the offence he has committed and now he has pleaded guilty which shows he has admitted their offence but he is also repenting for his acts.

Ld. P.Ps of Special Task Force, Shri. Ganesh Maity and Shri. Debtanu Dutta further submit that such a move by the convict is certainly a step for his repentance and also for reconnecting with the society and the convict is eager to return to the mainstream of the society to lead a normal life.

Ld. P.Ps of Special Task Force, Shri. Ganesh Maity and Shri.

Debtanu Dutta further submit that this attitude of the convict be considered at the time of passing sentence.

Ld. P.Ps of Special Task Force, Shri. Ganesh Maity and Shri. Debtanu Dutta further submit that the matter is totally upon the discretion of this Court regarding quantum of sentence.

Heard all the sides.

“I do not punish you for stealing the ship but so that the ship may not be stolen”, said a Judge. “Penalty keeps the people under control, penalty protects them, penalty remains awake when people are asleep, so the wise have regarded the punishment (Danda) as a source of righteousness”, said Manu. The chief end of the law of Crime is to make the evil-doers an example and a warning to all that are like-minded with them. The primary consideration which generally weighs with the Courts in the matter of sentence on the accused is to face their sentence imposed in such an effectively impression on the accused that the life of crime does not pay. Judge William J.Campbell of American Federal Court pointed out: Where the law violation is a matter of principle, the offenders must be sentenced as examples otherwise human nature being what it is, we would most assuredly face with great number of less stable Citizens.

Now let us the punishment provided as per ***Indian Penal Code 1860, Unlawful Activities (Prevention) Act, 1967 and Explosive Substances Act, 1908.***

Indian Penal Code 1860:

Section 121A:- Whoever within or without India conspires to commit any of the offences punishable by section 121, or conspires to overawe, by means of criminal force or the show of criminal force, [the Central Government or any [State] Government, shall be punished with [imprisonment for life], or with imprisonment of either description which may extend to ten years, and shall also be liable to fine.

Section 120B. Punishment of criminal conspiracy. – (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two year or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal

conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

Unlawful Activities (Prevention) Act, 1967:

Section 18. Punishment for conspiracy, etc. – Whoever conspires or attempts to commit, or advocates, abets, advises or [incites, directs or knowingly facilitates] the commission of, a terrorist act or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

Section 20. Punishment for being member of terrorist gang or organization. – Any person who is a member of terrorist gang or a terrorist organization, which is involved in terrorist act, shall be punishable with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine.

Explosive Substances Act, 1980

Section 4 in The Explosive Substances Act, 1908

[4. Punishment for attempt to cause explosion, or for making or keeping explosive with intent to endanger life or property.—Any person who unlawfully and maliciously—1[4. Punishment for attempt to cause explosion, or for making or keeping explosive with intent to endanger life or property.—Any person who unlawfully and maliciously—"

(a) does any act with intent to cause by an explosive substance or special category explosive substance, or conspires to cause by an explosive substance or special category explosive substance, an explosion of a nature likely to endanger life or to cause serious injury to property; or

(b) makes or has in his possession or under his control any explosive substance or special category explosive substance with intent by means thereof to endanger life, or cause serious injury to property, or to enable any other person by means thereof to endanger life or cause serious injury to property in India, shall, whether any explosion does or does not take place and whether any injury to person or property has been actually caused or not, be punished,—

(i) in the case of any explosive substance, with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine;

(ii) in the case of any special category explosive substance, with rigorous

imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.]

Section 5 in The Explosive Substances Act, 1908

1[5. Punishment for making or possessing explosives under suspicious circumstances.—Any person who makes or knowingly has in his possession or under his control any explosive substance or special category explosive substance, under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, shall, unless he can show that he made it or had it in his possession or under his control for a lawful object, be punished,—1[5. Punishment for making or possessing explosives under suspicious circumstances.—Any person who makes or knowingly has in his possession or under his control any explosive substance or special category explosive substance, under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, shall, unless he can show that he made it or had it in his possession or under his control for a lawful object, be punished,—" ‘

(a) in the case of any explosive substance, with imprisonment for a term which may extend to ten years, and shall also be liable to fine;

(b) in the case of any special category explosive substance, with rigorous imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.]

Fact found from the case record are as follows :-

This convict along with other accused persons on or before 02.02.2018 being the members of banned terrorist organization namely JMB entered into criminal conspiracy with each other within India and/or outside India conspired to launch terrorist attack on the Buddhist religious leaders such as Dalia Lama at Buddha Gaya, Monasteries, other communities or wage war against Government establishments of India, Government of Bangladesh/Government of Myanmar for taking vengeance against the oppression inflicted upon Rohingya Muslims by the Myanmar Government troops by means of criminal force or show of force or collecting of explosives, explosive substances, detonators, materials to prepare IED and other incriminating articles such as Books, papers.

Moreover, this convict along with other accused had also acquired and/or possessed special category explosive substance viz IED in a

concealed manner with intent to endanger life, or cause serious injury to property, or to enable any other person by means thereof to endanger life or cause serious injury to property.

Not only that this convict along with other accused persons had also committed or attempted to commit or advocated or abetted, knowingly facilitate a terrorist act or any preparatory to commission of a terrorist act.

No doubt that the convict pleaded guilty and the Court should also need to take a positive aspect. The statement of the convict show that he has realized his mistakes and he is repenting his deeds.

If that be the so, then the Court should take a pragmatic approach giving the convict an opportunity to reform himself to be a dutiful citizen of the country.

Hence, this Court finds that there is necessity to show some leniency while imposing punishment on the convicts but that should not go a wrong message to the society.

The convicts have prayed guilty stating that due to immaturity they have stepped into an illegal act and now are repenting for their misdeeds and want to return in the mainstream of the society and also want to lead a healthy life.

Considering all these, **convict (A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf** is directed:

(a) to suffer rigorous imprisonment for **five years** and **six months** and fine of **Rs 2,000/- (Rupees Two Thousand only)** in default rigorous imprisonment for **three months** for the offence punishable under section **121A of the Indian Penal Code, 1860.**

(b) to suffer rigorous imprisonment for **five years** and **six months** and fine of **Rs 2,000/- (Rupees Two Thousand only)** in default rigorous imprisonment for **three months** for the offence punishable under section **120B of the Indian Penal Code, 1860.**

(c) to suffer rigorous imprisonment for **five years** and **six months** and fine of **Rs.2,000/-(Rupees Two Thousand)** in default rigorous imprisonment for **three months** for the offence punishable under section **18 of the Unlawful Activities (Prevention) Act, 1967.**

(d) to suffer rigorous imprisonment for **five years** and **six months** and fine of **Rs.2,000/-(Rupees Two Thousand)** in default rigorous imprisonment for **three months** for the offence punishable under section

20 of the Unlawful Activities (Prevention) Act, 1967.

(e) to suffer rigorous imprisonment for **five years** and **six months** and fine of **Rs.2,000/-(Rupees Two Thousand)** in default rigorous imprisonment for **three months** for the offence punishable under section **4 of The Explosive Substances Act,1908.**

(f) to suffer rigorous imprisonment for **five years** and **six months** and fine of **Rs.2,000/-(Rupees Two Thousand)** in default rigorous imprisonment for **three months** for the offence punishable under section **5 of The Explosive Substances Act,1908.**

Sentences of imprisonment of all the offences would run concurrently.

Convict namely, **(A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf** was in custody from **24.09.2019** till **05.11.2022 (three years and two months)** will be set off **under Section 428 of Cr.P.C.**

Considering all this I do not think that the convict should not get the benefit of section 360 of the Criminal Procedure Code or section 4 of Probation of Offenders Act.

Hence, it is,

O r d e r e d

That the : **Convict (A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf** is directed:

(a) to suffer rigorous imprisonment for **five years** and **six months** and fine of **Rs 2,000/- (Rupees Two Thousand only)** in default rigorous imprisonment for **three months** for the offence punishable under section **121A of the Indian Penal Code,1860.**

(b) to suffer rigorous imprisonment for **five years** and **six months** and fine of **Rs 2,000/- (Rupees Two Thousand only)** in default rigorous imprisonment for **three months** for the offence punishable under section **120B of the Indian Penal Code,1860.**

(c) to suffer rigorous imprisonment for **five years** and **six months** and fine of **Rs.2,000/-(Rupees Two Thousand)** in default rigorous imprisonment for **three months** for the offence punishable under section **18 of the Unlawful Activities (Prevention) Act, 1967.**

(d) to suffer rigorous imprisonment for **five years** and **six months** and fine of **Rs.2,000/-(Rupees Two Thousand)** in default rigorous

imprisonment for **three months** for the offence punishable under section **20 of the Unlawful Activities (Prevention) Act, 1967.**

(e) to suffer rigorous imprisonment for **five years** and **six months** and fine of **Rs.2,000/-(Rupees Two Thousand)** in default rigorous imprisonment for **three months** for the offence punishable under section **4 of The Explosive Substances Act,1908.**

(f) to suffer rigorous imprisonment for **five years** and **six months** and fine of **Rs.2,000/-(Rupees Two Thousand)** in default rigorous imprisonment for **three months** for the offence punishable under section **5 of The Explosive Substances Act,1908.**

Sentences of imprisonment of all the offences would run concurrently.

Convict namely, **(A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf** was in custody from **24.09.2019** till **05.11.2022 (three years and two months)** will be set off **under Section 428 of Cr.P.C.**

Sentences of imprisonment of all the offences of the above mentioned convict would run concurrently.

Personal documents and belongings of the convict be returned to the convicts after serving the period of sentence and also after taking proper verification and identification.

All the documents and properties of this case be retained and preserved till the period of appeal.

The above mentioned convict was made aware that he can prefer an appeal before the Hon'ble High Court through legal aid and on the quantum of sentences and in response, the convict stated that he has already engaged lawyer and he may prefer an appeal before the Hon'ble High Court through his Ld. Advocate as appointed by him after discussing with his family members.

Let a copy of this judgment be given to the Secretary, High Court Legal Services Committee, Calcutta for appointing Advocate on behalf of the convict for preferring appeal before the Hon'ble High Court.

Let a copy of this judgment be sent to the Secretary, High Court Legal Services Committee, Calcutta under section 365 of Criminal Procedure Code.

The Superintendent of Presidency Correctional Home, Alipore where the convicts are received upon conviction shall also communicate to them

of such right to prefer an appeal with legal aid in the record of the jail.

In the event the convict desire to prefer an appeal through the Legal Aid, The Superintendents of Presidency Correctional Home, Alipore shall forth remit necessary papers not only to the registry of the High Court Calcutta but also to the Secretary, High Court Legal Services Committee, Calcutta for taking necessary steps in the matter.

Let a certified copy of this order be given to the convict free of cost under section 363 (2) of Criminal Procedure Code.

Let a copy of this order be sent to the Commissioner of Police, Calcutta Branch, under section 365 of Criminal Procedure Code.

The The Superintendents of Presidency Correctional Home, Alipore where the convict has been received after conviction shall also communicate to him of such right to prefer an appeal with legal aid in the record of the jail.

In the event the convict desire to prefer an appeal through the Legal Aid, The Superintendent of Presidency Correctional Home, Alipore shall forth remit necessary papers not only to the registry of the High Court Calcutta but also to the Secretary, District Legal Services Authority, City Civil Court, Calcutta for taking necessary steps in the matter.

At the time of passing judgement, Ld. Advocate for the **convict** namely **(A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf** verbally submits that the abovenamed convict be transferred to the **Burdwan Correctional Home**, so that he can interact with his family members.

The Superintendent of Presidency Correctional Home, Alipore be directed to take a sympathetic approach so that the **convict** namely **(A-21) Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf** be transferred to **Burdwan Correctional Home** maintaining all the guidelines of the Jail Code.

Dictated and corrected by me.

Chief Judge,
City Sessions Court, Calcutta

Chief Judge,
City Sessions Court, Calcutta

