

S.T. NO.02 (07) OF 2022
SESSIONS CASE NO.12 OF 2020
(CNR - WBCS01-000290-2020)

Present: Sri Soumendra Nath Das
Chief Judge, City Sessions Court, Calcutta
J.O. CODE NO.WB01132

Order No.117 dated 17.08.2024

To-day is fixed for production of the accused persons, appearance of the four accused persons, further hearing on the point of re-casting/alteration of charge and submission of medical report in respect of the accused person namely Dilwar Hossain.

To-day is also fixed for awaiting detailed report from the Ld. Secretary, the District Legal Service Authority, Kolkata.

The accused person nos.(A-2), (A-3), (A-4), (A-7), (A-10), (A-11), (A-12) and (A-13) are produced before this Court from the J.C.

The accused person nos.(A-8), (A-14), (A-15) and (A-20) on Court Bail are present before this Court by filing hazira.

Ld. Counsels for the accused persons and the Ld. Special P. P. are present.

The Assistant Commissioner of Police, S.T.F., Kolkata has filed one compliance report through the Ld. Special P.P. along with photocopies of T.R. Form No.-7, seizure list dated 19.03.2019 and copies containing photographs of currency notes in terms of order no.115 dated 29.07.2024 passed by this Court stating that the seized cash of Rs.1,00,000/- (Rupees One Lakh Only) being the subject matter of this case including three pieces of notes of 2000/- rupee denomination seized on 19.03.2019 during investigation of the case has been deposited in Reserve Bank of India on 02.08.2024 after keeping photographs of each of the notes in compliance with the order no.115 dated 29.07.2024 passed by this Court and praying for passing necessary order.

Perused the report, photocopies of T.R. Form No.-7, seizure list dated 19.03.2019 and copies containing photographs of currency notes and let those be kept with the record.

Now the record is taken up for further hearing of the petition on the point of re-casting/alteration of charge.

At this juncture, Ld. Counsel on behalf of the accused person namely (A-4) Md. Paigambar Sk. files a petition along with a photocopy of medical paper stating that conducting Ld. Senior Counsel is unable to attend Court today for conducting the hearing on the point of re-casting/alteration of charge as he has suddenly fallen ill and therefore an adjournment has been prayed for.

Heard all sides on the point of adjournment.

Considering the submissions of all sides and also the health condition of one of the conducting Ld. Counsels, prayer for adjournment is considered and allowed for the ends of justice.

Received one medical report in respect of the accused person namely Dilwar Hossain (A-7) along with a forwarding letter bearing nos.10117/IMB dated 16.08.2024 from the Superintendent of Presidency Correctional Home in terms of order no.115 dated 29.07.2024 passed by this Court.

Perused the report issued by the Senior Medical Officer, Presidency Correctional Home in respect of the accused person namely Dilwar Hossain (A-7) wherein the Senior Medical Officer has stated as follows: "Lastly he attended Surgery OPD of SSKM Hospital on 11.07.2024 for follow up. Again they opined that he has no clinically detected Hernia to operate, medications and to review after two months strictly.

He is now following the advice of SSKM Hospital and will be followed up at Surgery OPD of SSKM Hospital on 12.09.2024."

Let the same be kept with the record.

At this juncture, a petition has been filed on behalf of the accused person namely Dilwar Hossain stating that the accused/petitioner has been suffering from hernia since long and his health condition started deteriorating and he is facing immense pain and the doctors of SSKM Hospital had submitted unsatisfactory report and at present the accused/petitioner is in urgent need of medical treatment and therefore the Ld. Counsel prays for a direction upon the Superintendent of Presidency Correctional Home to take necessary steps for taking second opinion with regard to the present health condition of the accused/petitioner from NRS Medical College and Hospital and/ or at Calcutta Medical College and Hospital for the purpose of proper and adequate medical treatment.

Perused the petition filed today on behalf of the accused person namely Dilwar Hossain.

Heard the accused person namely Dilwar Hossain.

Upon hearing the submissions of the accused/petitioner and the Ld. Counsel for the accused person as well as Ld. Special P.P. and also on consideration of the report submitted by the concerned Correctional Home Authority, the Superintendent of Presidency Correctional Home is further directed to take necessary steps for providing adequate medical treatment to the accused person namely Dilwar Hossain strictly as per advice of the registered medical practitioner of the Correctional Home as per the provisions of West Bengal Correctional Services Act ,1992 and submit a compliance report before this Court on the next date fixed i.e. on 11.09.2024.

A petition has been filed on behalf of the accused person no.(A-12) namely Abdul Karim @ Karim Sk. @ Iqbal stating that mother of the accused/petitioner is a bed ridden patient and she is critically ill and the accused/petitioner is willing to visit his ailing mother and so the accused/petitioner prays for an order of emergency parole with police escort and therefore the accused/petitioner prays for a direction upon the Superintendent

of concerned Correctional Home to take necessary steps as per prayer of the accused person.

In reply, Ld. Special P.P submits that parole is exclusively the discretion of the Superintendent of concerned Correctional Home and the said prayer has to be disposed of by the Correctional Home Authority as per the provisions of W.B. Correctional Services Act, 1992 and therefore the Superintendent of the concerned Correctional Home be directed to do the needful as per the said Act.

Perused the petition filed today on behalf of the accused person no.(A-12) namely Abdul Karim @ Karim Sk. @ Iqbal.

Heard both sides.

In view of the submission of both sides, the Superintendent of Presidency Correctional Home, Alipore shall act strictly as per the provisions of the West Bengal Correctional Services Act, 1992 while disposing of the prayer of the accused person no.(A-12) namely Abdul Karim @ Karim Sk. @ Iqbal.

This Court makes it clear that this Court has not entered into the merit of the petition dated 17.08.2024 and the concerned Superintendent of the Correctional Home shall deal with the same in accordance with Law.

Thus, with the above observation the petition dated 17.08.2024 stands disposed of.

The Superintendent of Presidency Correctional Home is further directed to take necessary steps to ensure production of the accused person Abdul Karim @ Karim Sk. @ Iqbal before this Court on the date fixed i.e.11.09.2024.

I find that the charge hearing with regard to alteration of charge is getting deferred at the instance of the accused persons in each and every occasion.

Ld. Counsels for the parties are directed to remain present and to come ready with hearing of the recasting of the charge and or submission, if any, on the next date in this regard.

On submission of both sides, fix **11.09.2024** for production of the accused persons, appearance of the four accused persons, further hearing on the point of recasting/alteration of charge and submission of medical report in respect of the accused person namely Dilwar Hossain.

The accused person nos.(A-2), (A-3), (A-4), (A-7),(A-10), (A-11), (A-12) and (A-13) are remanded to J.C. till 11.09.2024.

The accused person nos.(A-8), (A-14), (A-15) and (A-20) are as before.

C.D. be returned.

Let a copy of this order be sent to the Superintendent of Presidency Correctional Home along with copies of the petitions of the accused person namely (A-7) Dilwar Hossain and accused person namely (A-12) namely Abdul Karim @ Karim Sk. @ Iqbal filed today for information and necessary action.

D/C by me

Sd./-

Chief Judge
City Sessions Court
Calcutta

Chief Judge
City Sessions Court
Calcutta

Later:

The case record is again placed before this court.

Received one report from the Ld. Secretary, the District Legal Service Authority, Kolkata along with a forwarding letter vide no.1482/DLSAK/2024 dated 12.08.2024 in terms of order no.114 dated 20.07.2024 and subsequent order no.116 dated 03.08.2024 passed by this Court.

Perused the said report.

Ld. Counsel for the convict (A-21), Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf submits that the convict has prayed for a direction upon the concerned Correctional Home Authority to intimate the probable date of his release from the Correctional Home, but in the said report of the Ld. Secretary, the District Legal Service Authority, Kolkata there is no mention of the probable date of release of the above named convict from the Correctional Home after serving out the sentences as awarded by this Court.

On perusal of the report dated 12.08.2024 of the Ld. Secretary, the District Legal Service Authority, Kolkata, this Court finds that the report as submitted is not satisfactory as no probable date of release is clear from the said report.

In view of such fact, the Ld. Secretary, the District Legal Service Authority, Kolkata is further directed to submit a detailed report after making an enquiry from the Superintendent of Presidency Correctional Home indicating the probable date of release of the convict (A-21), Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf in terms of order no.114 dated 20.07.2024 passed by this Court on the next date fixed.

The Superintendent of Presidency Correctional Home is directed to render all assistance to the Ld. Secretary, the District Legal Service Authority, Kolkata at the time of enquiry made by the concerned Authority with regard to probable date of release of the convict (A-21), Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf.

Fix **21.09.2024** awaiting detailed report from the Ld. Secretary, the District Legal Service Authority, Kolkata

Let a copy of this order be sent to the Ld. Secretary, the District Legal Service Authority, Kolkata for information and necessary action.

Let a copy of this order be sent to the Superintendent of Presidency Correctional Home for information and necessary compliance.

D/C by me

Sd./-

Chief Judge
City Sessions Court
Calcutta

Chief Judge
City Sessions Court
Calcutta