

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.126 dated 30.11.2024

To-day is fixed for production of the accused persons, appearance of the four accused persons and further hearing on the point of re-casting/alteration of charge.

To-day is also fixed for submission of report by the Superintendent of Presidency Correctional Home in respect of the petition dated 08.11.2024 filed on behalf of the convict no.(A-19) namely Abdul Rahim in terms of order no.122 dated 08.11.2024 passed by this Court.

The accused person nos.(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-2) Ahammad Ali @ Kalu, (A-3) Nur Alam Momin @ Noor Alam @ Alam and (A-4) Md. Paigambar Sk. are not produced before this Court from the J.C.

Received one report from the Superintendent of Presidency Correctional Home bearing letter no.14148/RB dated 26.11.2024 stating that the accused person nos.(A-2) Ahammad Ali @ Kalu, (A-3) Nur Alam Momin @ Noor Alam @ Alam and (A-4) Md. Paigambar Sk. were produced before the Court of Ld. Special Judge, NIA, Patna, Bihar in connection with Special Case no.01 of 2018 on 24.09.2024 and thereafter the said three accused persons have not yet been returned to the Correctional Home from Patna, Bihar and as such the concerned Correctional Home Authority is unable to produce these three accused persons before this Court.

Perused the same and let the same be kept with the record.

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.

In view of the non production of the three accused person nos.(A-2) Ahammad Ali @ Kalu, (A-3) Nur Alam Momin @ Noor Alam @ Alam and (A-4) Md. Paigambar Sk. this Court has no other option left but to adjourn the further hearing of the petition on the point of re-casting/alteration of charge.

Accordingly, the case is adjourned today for the ends of justice.

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 fixed in this regard.

The Superintendent of Presidency Correctional Home is also directed to take necessary steps to ensure production of the accused person nos.(A-2) Ahammad Ali @ Kalu, (A-3) Nur Alam Momin @ Noor Alam @ Alam and (A-4) Md. Paigambar Sk. before this Court on the next date fixed.

On submission of both sides, fix **09.01.2025** for production of the accused persons, appearance of the four accused persons and further hearing on the point of re-casting/alteration of charge.

The accused person nos.(A-7),(A-10), (A-11), (A-12) and (A-13) are remanded to J.C. till 09.01.2025.

To-date i.e. on **09.01.2025** for production of the accused person nos.(A-2), (A-3) and (A-4) before this Court.

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

Now the petition dated 12.06.2024 filed on behalf of the convict (A-21), Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf together with the report received from the Ld. Secretary, the District Legal Service Authority, Kolkata vide no.1827/DLSAK/2024 dated 20.09.2024 is taken up for hearing.

Ld. Spl. P.P and the Ld. Advocate for the convict (A-21), Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf.

Ld. Advocate for the convict submits that it is the observation of Ld. Court in all judgement of three cases that the custody period to be counted from the day of fresh production i.e. from 24.09.2019, 26.08.2019 and 1.09.2019 respectively in terms of section 428(2) of Cr.P.C.

Ld. Advocate for the convict further submits that on 26.12.2023 the Ld. Advocate for the convict sent Advocate letter with an intimation of the order no. 520 dated 14.11.2022 of Ld. Chief Judge, City Sessions Court to the superintendent and copy of that letter sent to ADG and I.G of correctional services (Prison).

In support of his contention Ld. Advocate for the convict files a Judgement of the Hon'ble Supreme Court of India reported in (2023) 3 Supreme Court cases 184 : 2022 SCC Online SC 1735 in the case of Iqram Vs State of Uttar Pradesh and Others and Section 427 (2) of Cr.P.C prays for releasing the convict immediately.

Ld. P.P submits that one report may be called from the Superintendent Presidency Correctional and his personal presence is very much required for just decision of this case.

Heard both sides **in part**.

The Superintendent Presidency Correctional is directed to appear personally before this Court alongwith related files of convict (A-21), Izaj Ahmed @ Moti Ahmed @ Jitu @ Izaj @ Md. Yousuf on the next date fixed positively i.e. on **03.12.2024 at about 3 p.m.**

The I.O. of this case is directed to take necessary steps to ensure production of the C.D. on the next date fixed.

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
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Later:

After passing of the above order, a report along with annexures in terms of order no.122 dated 08.11.2024 passed by this Court has been received from the Superintendent of Presidency Correctional Home vide letter no.13780/WO dated 16.11.2024.

Perused the same and let the same be kept with the record.

To-date i.e. on **27.11.2024** for consideration of the petition dated 08.11.2024 filed on behalf of the convict no.(A-19) namely Abdul Rahim along with the report submitted by the Superintendent of Presidency Correctional Home vide letter no.13780/WO dated 16.11.2024.

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

D/C by me

Sd/-

Chief Judge
City Sessions Court
Calcutta

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