

IN THE COURT OF LD. CHIEF JUDGE,
CITY SESSIONS COURT, BICHAR BHAWAN, CALCUTTA

NIA CASE NO 03 OF 2024

(CNR –WBCS01-000482-2024)
Present: Sri Soumendra Nath Das
Chief Judge, City Sessions Court, Calcutta.
Cum Special Judge, Under NIA Act
City Sessions Court, Calcutta
J.O. CODE NO.WB01132

Order no. 07 dated 02.09.2024

Today is fixed for production of the accused persons, opening the seal of the G.R. case bearing GR no.373/2022 in presence of both sides and submission of I.O's report in final form.

The accused person namely **Moinur Rahaman** is produced from the J.C. along with the custody warrant.

One Vakalatnama has been filed on behalf of the accused person namely Moinur Rahaman.

Let the same be kept with the record.

The accused persons namely Jahanar Mollah @ Jahadar Mollah and Mahabbat Mollah are found present by filing hazira.

Two sets of Vakalatnamas have been filed on behalf of the above named two accused persons.

Let it be kept with the record.

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

The seal of the G.R. case bearing GR no.373/2022 is opened by cutting the envelope in presence of the Ld. Counsels for the accused persons and the Ld. Special P.P. of NIA.

Received one forwarding letter from the Ld. District Judge, Howrah vide no.1246-XII (2) dated Howrah, 29.07.2024 regarding transmission of case record being no.GR373/2022 arising out of Amta P.S. case no.49/2022 dated 23.02.2022 in connection with the NIA case no.03/2024.

Let the same be kept with the record.

Received one Gmail copy dated 26.08.2024 along with annexures from the Superintendent of Presidency Correctional Home.

Let the same be kept with the record.

Received one compliance report from the Uluberia Subsidiary Correctional Home vide letter no.846/AB dated 30.08.2024 in terms of order dated 20.08.2024 passed by this Court.

Let the same be kept with the record.

On scrutiny of the case record, it transpires that order sheets in the SL no.01 in the combined table have been paginated from pages numbered as 1 to 7 and order dated 22.07.2024 passed by the Ld. ACJM, Uluberia has not been paginated and thereafter document marked as Sl. Nos.2 to 09 have been paginated as Page nos.08 to 65.

On further careful scrutiny of the case record I find that page markings have done in the order sheets in the front pages but the order dated 22.07.2024 has not been paginated and the formal FIR has been marked on the reverse side though the other pages of the case record are marked on the front side.

It also appears that original case docket with brief copy in connection with Amta P.S charge sheet no. 344/2022 dated 16.10.2022 under section 286/326/308/304/120B of the I.P.C and read with section 3/4/5 of the Explosive Substances Act containing (1 to 326) pages is also attached to the case record.

On careful scrutiny of the GR case record it also transpires that vide order dated 02.07.2024 the Ld. ACJM, Uluberia fixed the next date of production of the accused person namely Moinur Rahaman on 16.07.2024 but the said order was not lying with the record and thereafter it appears that order dated 22.07.2024 was passed by the Ld. ACJM, Uluberia which reflects the receipt of intimation of order of this Court vide Memo no.2163 (CJ) dated 15.07.2024, however no order dated 16.07.2024 with regard to production of the accused person namely Moinur Rahaman and appearance of the remaining accused persons before the Ld. ACJM, Uluberia is found from the GR case record sent before this Court.

Ld. ACJM, Uluberia is directed to send before this Court the order sheet dated 16.07.2024 as the same is not lying with the case record.

Ld. District Judge, Howrah is requested to look into the matter.

I also find that vide order dated 22.07.2024 Ld. ACJM, Uluberia directed the dealing assistant to transmit the case record before the City Sessions Court, Calcutta at once and the said case record was received by the office of this Court on 30.07.2024 and the case record was placed before this Court on 31.07.2024.

It further transpires that the charge sheet bearing no.344/2022 dated 16.10.2022 was submitted by the Investigating Officer, Pritom Bhowmick, S.I., Amta Police Station against the four accused persons namely i) Sk. Maharam (since deceased), ii) Jahanar Mollah @ Jahadar Mollah, iii) Mahabbat Molla and iv) Moinur Rahaman u/s 286/326/308/304/120B of IPC and 3/4/5 of Explosive Substances Act on 21.10.2022.

Out of the four charge sheeted accused persons, two accused persons namely ii) Jahanar Mollah @ Jahadar Mollah and iii) Mahabbat Molla are on bail and appear before this Court in person and one of the accused i.e. accused person no. iv) Moinur Rahaman is produced from J.C.

I find from the order of the Ld. ACJM, Uluberia after submission of charge sheet on 21.10.2022 that warrant of arrest was issued against accused no. i) Sk. Maharam and accused no. iv) Moinur Rahaman though in the charge sheet it is specifically stated that accused no. i) Sk. Maharam had died.

The I.O is directed to produce the death certificate of deceased Sk. Maharam on the next date fixed alongwith a report in this regard.

A petition has been filed on behalf of the accused persons namely Jahanar Mollah @ Jahadar Mollah and Mahabbat Molla praying for allowing these accused persons to remain on the same bail bond as furnished before the Ld. Magistrate on the ground stated therein.

The copy of the said petition has not yet been served upon the Prosecution.

The petition is not also moved by the Ld. Advocate for the accused persons before this Court.

Let the same be kept with the record.

Dy. S.P./C.I.O., NIA, B.O. Kolkata has filed one application through the Ld. Special P.P. of NIA praying for Police Custody of the accused person namely Moinur Rahaman son of Jainal Abedin for three days from 03.09.2024 to 05.09.2024 on the ground stated therein.

Now the record is taken up for hearing on the point of police custody of this accused person namely **Moinur Rahaman** as prayed for by the NIA.

Ld. Advocate for this accused person Moinur Rahaman raised objection to the prayer of police custody of this accused person and submits that this accused/petitioner has already been interrogated by the NIA officials inside the correctional home and there is hardly any further requirement for police custody of this accused/petitioner in this case and he prays for rejection of P.C of this accused/petitioner.

Ld. P.P prays for three days police custody of this accused/petitioner and submits that the examination of this accused person in police custody may yield to revealing of fruitful information on many important aspects and in order to get some important leads which could aid and help in extracting important evidences and clues for the purpose of unveiling of larger conspiracy with regard to the bomb blast explosion which occurred on 23.02.2022 and for which the police custody of this accused/petitioner is very much required for the purpose of proper and thorough investigation of this case.

Heard both sides.

Perused the petition of the NIA, materials on record and the C.D.

It appears from the lower court record that charge sheet being no. 344 of 2022 dated 16.10.2022 has been filed on 21.10.2022 against the four accused persons 1) Sk. Moharam (since deceased), 2) Jahanar Molla @ Jahadar Mollah, 3) Md. Molla and 4) Moinur Rahaman wherein accused no. 4 Moinur Rahaman was shown as an absconder and thereafter the said accused no. 4 Moinur Rahaman had voluntarily surrendered before the Court of Ld. ACJM, Uluberia on 02.07.2024 and his bail prayer was rejected and he was taken into custody so it cannot be said that his detention is illegal as charge sheet has already been submitted in this case and it is evident from the order dated 02.07.2024 of Ld. ACJM, Uluberia that the bail prayer u/s 438 of Cr.P.C of accused no. 4 Moinur Rahaman was rejected by the Ld. Sessions Judge, Howrah by her order dated 28.02.2024 in Criminal Misc. Case no. 318 of 2024.

Considering the nature and gravity of the offence and also considering the materials in the C.D, the prayer for P.C of accused person Moinur Rahaman is very much necessary for obtaining vital information relating to making of live bombs at a ground near Chandrapur Bazar under Amta P.S for the purpose of committing heinous crimes and also for unveiling the larger conspiracy in connection with the alleged offence of bomb blast explosion.

Accordingly, the prayer for P.C of this accused **Moinur Rahaman** is **allowed** for **three days** in the interest of proper and thorough investigation of this case.

Accused person namely **Moinur Rahaman** is remanded to police custody and he be produced before this Court on **06.09.2024** from P.C.

The I.O is at liberty to take the accused person in police custody from the court lock up after medical examination. The I.O is also directed to follow the guidelines of the Hon'ble Apex Court

reported in **1997(1) SCC Cri. Page 96** strictly during the detention of the accused person in PC/custody of NIA together with medical check up.

DSP, NIA, BO, Kolkata has filed another petition through the Ld. Special P.P. of NIA stating that investigation is being carried out on a day to day basis to identify and arrest the main conspirators involved in committing the offence and as such some more time is required for completing the investigation and submitting I.O's. report in final form and therefore some more time has been prayed for.

Ld. Spl. P.P submits that the investigation of this case has been transferred to NIA pursuant to the order dated 24.05.2024 of the Hon'ble High Court, Calcutta passed in WPA 4543 of 2022 and CPAN 698 of 2024 wherein the Hon'ble Court has specifically observed that in the event the accused persons are still not tracable and do not cooperate, the NIA shall be at liberty before the NIA Court to seek cancellation of bail of the accused persons and such order of the Hon'ble Court indicates that the accused persons were evading arrest for a long time and the NIA has been given liberty to file supplementary charge sheet if any after further investigation is undertaken.

Heard the submission of Ld. Spl. P.P.

The prayer for time for submitting the I.O's report in final form is considered and allowed in the interest of proper and through investigation in this case.

Fix **06.09.2024** for production of the accused person **Moinur Rahaman** from P.C, filing of death certificate along with report by the I.O with regard to the present status of accused person namely i) Sk. Maharam, appearance of the accused persons namely Jahanar Mollah @ Jahadar Mollah and Mahabbat Molla.

Todate i.e. on 06.09.2024 for hearing of the petition dated 02.09.2024 filed on behalf of the accused persons namely Jahanar Mollah @ Jahadar Mollah and Mahabbat Molla praying for allowing them to remain on the same bail and submission of I.O's. report in final form.

Written objection, if any, in the meantime.

CD be returned.

Ld. Counsel for the accused persons namely Jahanar Mollah @ Jahadar Mollah and Mahabbat Molla is directed to serve the copy of the petition dated 02.09.2024 upon the Prosecution in the meantime.

Let a copy of this order along with a letter of request be forwarded to the Ld. District Judge, Howrah, West Bengal for information and necessary action.

Let a copy of this order be sent to the Ld. ACJM, Uluberia for information and necessary compliance.

Let a copy of this order also be given to the I.O. of NIA through the Ld. Special P.P., NIA for information and necessary action.

D/C by me

Sd/-

Chief Judge,

City Sessions Court, Calcutta
Cum Judge Special Court, Calcutta
Under NIA Act.

Sd/-

Chief Judge,

City Sessions Court, Calcutta.
Cum Judge Special Court, Calcutta
Under NIA Act.