

S.C. No. 34 of 2021  
CNR - WBCS01-000615-2021

Order No.31, dated 26.09.2024:

The bail petition filed by the prisoner namely Ayub Khan to the Welfare Officer of Presidency Correctional Home forwarded by Superintendent of Presidency Correctional Home it taken up for hearing.

Ld. Advocate of the accused/prisoner and Ld. Chief PP are present.

The petition is filed by the prisoner/accused Ayub Khan u/s 479 of BNSS along with copy of Judgement passed by the Hon'ble Apex Court of India in Writ Petition (Civil) NO.406/2013 dated 23.08.2024 in which Hon'ble Court directed immediate implementation of section 479 of BNSS by calling upon the Superintendent of Jail across the country wherefrom the accused/prisoners are detained is under-trial and the said provision shall apply to all under-trial pending cases irrespective of whether the case was registered or or before 01.07.2024.

Let me peruse the contention of the petition. It has been contended in the petition that the petitioner/prisoner is detained in the Correctional Home since 26.03.2021 and maximum period of punishment prescribed for the offence alleged to have been committed is 10 years and he has spent three years and five months imprisonment as an under-trial and this period is more that 1/3 of maximum period of punishment prescribed.

Heard Ld. Advocate of the accused/prisoner.

Ld. Chief PP submitted that as per provision of section 479 of BNSS, the present accused/prisoner has already spent more than 1/3 period in the JC as under-trial prisoner and there is no previous conviction or pending of any criminal case found against the present accused/prisoner and prays that if the accused/prisoner is enlarged on bail them condition must be imposed upon the accused/prisoner as the accused hails from Rajasthan.

Heard both sides.

Perusing the record I find that charge has been framed against the accused/prisoner u/s 66C/67 of I. T. Act and section 306/385/506/471 of IPC, out of which the punishment of offence u/s 306 of IPC is maximum imprisonment for 10 years.

Having considered the petition of the prisoner duly forwarded by Superintendent of Presidency Correctional Home, authenticated by the officer concerned, I find that accused has already spent more than 1/3 of maximum period of sentence as under-trial in the present case. No previous conviction or pendency of any other case has been cited by the prosecution as against the accused/prisoner.

By invoking section 479 of BNSS, the accused is entitled to be released on bail.

Accordingly, accused/prisoner Ayub Khan may find bail of Rs.10000/- with two sureties of Rs.5000/- each, one of whom must be local subject to the satisfaction of Ld. CJM, Calcutta with conditions as follows:

- 1) That the accused shall meet the IO of this case once in a month;
- 2) that the accused shall appear before this Court on each and every date of trial;
- 3) that the accused shall not influence, induce or tamper any witness related to this case;
- 4) that the accused shall provide his address of place of residence before the IO of this case with supportive documents;
- 5) that the accused shall not leave India without prior permission of this Court.

IO of this case is directed to circulate the copy of the order of this Court to all the concerned police station of the residence of accused, so that the condition as imposed by this Court be complied with in its true spirit.

To date i.e. 04.10.2024 for cross examination of PW2.

D/ C by me.

Sd/- A. Ghosh  
Addl. Dist. & Sessions Judge,  
1<sup>st</sup> Fast Track Court, Calcutta.

Sd/- A. Ghosh  
Addl. Dist. & Sessions Judge,  
1<sup>st</sup> Fast Track Court, Calcutta.

Memo No.

Date : 26.09.2024

Copy of this order be sent to Ld. CJM, Calcutta for information and necessary action.

Addl. Dist. & Sessions Judge,  
1<sup>st</sup> Fast Track Court, Calcutta.