

**SC No. 14 of 2024**  
**Kurseong PS Case No. 41/24 Dt. 06.04.2024**  
**U/s. 364/376/511/302/201/34 of IPC**

Order No. 16

Dated 08.05.2025

Accused Adil Alam on CB is present along with his Id lawyer.

Accused Gufur Alam, Sarfaraj and Nabab Arju are in JC and are not physically produced from JC but are produced through audio/video medium.

Ld. Lawyer for the defacto-complainant-Sahabuddin files a petition U/s.18(8) of the BNSS 2023 praying for permission to allow the defacto-complainant to engage his private counsel in trial of the instant case. But, considering the fact that instant case is not governed under the provisions of BNSS,2023 the same stands rejected with a liberty to file appropriate petition under the appropriate provisions of law.

The bail petitions dtd.30.04.2025 of accused Gufur Alam, Sarfaraj and Md. Nabab @ Nabab Arju are taken up for hearing.

Hd. all the parties regarding the bail petitions.

Ld. Lawyers of the accused persons submitted that as the CS has already been filed and one of the accused Adil Alam has been granted bail by the Hon'ble High Court, so their prayer may be considered.

On the other hand, Id PP-in-charge raises objection by stating that all these three accused persons were directly involved in committing alleged offence punishable U/s 364/376/511/302/201/34 of IPC and their custody trial is required for the interest of justice.

Perused the CR.

Considered.

It reveals from the materials of the CR which includes the CS that the same clearly reveals about direct involvement of the accused Nabab Arzu in committing the heinous nature of crime of kidnapping, attempting to rape and thereafter killing a lady with the help of other accused persons, who also applied for bail.

So far as the submission of the Ld. Lawyer for another accused namely, Aadil Alam being granted bail by the Hon'ble High Court is concerned, I find from the materials of the CD that these three accused persons are standing on the complete different footings than from him.

Having considered the above facts and circumstances and also the dictum of the Hon'ble Supreme Court passed in catena of its decisions that to consider the bail application of an accused the Court has not to only to consider the long incarceration behind the iron bar but also has to consider the magnitude of allegations against him, I find no merit in the bail application of these three accused persons. Thus, the same stands rejected.

Received report from SI/ Sagar Pradhan of Kurseong PS along with download copy of the RC Book of the seized vehicle. He also files a petition stating therein that the IC of Kurseong PS could not appear today as he had to go to Sevoke PP in C/w immediate L/O duty and prays for another date for appearance of the IC.

Considering the ground for IC's inability to appear today in compliance of the previous order passed by the Ld. PO in-charge of this Court on 30.04.2025, the same is allowed and he is directed to appear on the next date to explain why he failed to submit report on that date.

Petition for release of the vehicle filed by the attorney Auranzeb filed on 12.03.2025 is taken up for hearing.

The Id lawyer for the attorney by relying upon the case of Sunderbhai Ambalal .Vs. State of Gujarat, AIR 2003 SC 638, Khengarbhai Lakhbhai Dambhala Vs... State of Gujrat, 2024 INSC 285 and Biswajit Dey Vs State of Assam, 2025 INSC 32 submits that the said vehicle may be released on any condition.

On the other hand, the Id Spl PP-in-charge raises objection by submitting that the CFSL Report regarding the samples collected from the said seized vehicle, which was used for committing the crime of kidnapping and murder of a lady, is yet to be received and accordingly the prayer be rejected at this stage.

It transpires from the LCR of the GR case that the IO seized the vehicle in question on 23.05.2024 from the house of the applicant/Aurangzeb at Islampur, Uttar Dinajpur and since then the same is lying in his custody. Report submitted by the SI Sagar Pradhan of Kurseong PS also reveals that the accused Nabab Arju is the registered owner of the said vehicle and present applicant Aurangzeb is the constituted attorney of the vehicle and he used to look after the said vehicle much prior to the commission of the alleged incident. That apart, the power of attorney of the applicant dt. 09.01.2024 duly verified by the IO on inquiry, as directed by this Court after filing of the impugned petition, also substantiates submission of the Ld. Lawyer for the applicant.

Prosecution raises objection regarding impugned petition of the release of the vehicle in question only on the ground that the same is required for investigation of this case.

**ST No.4(3)2025**  
**SC No. 14 of 2024**

Order No. 16(Contd.)  
Dated 08.05.2025

It is pertinent to mention herein that the IO of this case also filed his report on 28.11.2024 regarding release of the vehicle in question wherein he mentioned that the forensic samples had already been taken from the vehicle in question by the senior scientific officer of RFSL Jalpaiguri and the same was sent to CFSL, Chandigarh. He raises objection regarding release of the vehicle on the ground that in future any further sample maybe needed to be taken from the vehicle in question and the vehicle if released than there is chance of erasing or tampering the evidence of the vehicle by the applicant.

Thus, it is clear from the report of the IO as well as present police officer who submitted the latest report that the scientific evidence from the vehicle had already been collected by the senior scientific officer and sent to the CFSL Chandigarh for examination. Furthermore, the CS has already been filed without receiving the forensic report on 26.06.2024. As the forensic samples were collected long back for the purpose of investigation and since then no further communication is received from the concerned CFSL or RFSL that those samples are insufficient for its scientific examination, so it can be safely presumed that there is hardly any chance of getting such prayer from the CFSL and accordingly I mind no merit in raising objection on such ground by the IO.

So far as the law regarding release of the seized vehicle U/s 451 of CrPC is concerned the Hon'ble Supreme Court in the case of Sundarbai Ambalal (Supra), clearly laid down that in no set of circumstances, the investigating officer should keep seized articles in custody for a longer period for the purpose of investigation and identification. It further observed that "In our view, whatever be the situation, it is of no use to keep such-seized vehicle at the Police stations for a long period. It is for the Magistrate to pass the appropriate orders immediately by taking appropriate bond and gurantee as well as security for return of the said vehicles if required at any point of time. This can be done pending hearing of application for return of such vehicles. Besides that, the Hon'ble Court also laid down the procedure to be adopted by the IO while releasing the seized vehicle / articles U/s 451 of the CrPC.

Other two case laws, as relied upon by the Ld. Lawyer for the applicant, also supports his contention.

Having considered the above facts and circumstances; documents concerning the seized vehicle; power of attorney of the applicant; IO's report about authenticity of the said power of attorney as well as the dictum of the Hon'ble Supreme Court, I find no reason to reject the petition of the constituted attorney-Aurangzeb for release of the seized vehicle. Thus the same is allowed and the seized vehicle bearing registration No. WB 32AD/4246 be released in favour of the constituted attorney by the IO / IC of Kurseong PS on execution of Zimmanama Bond of rupees ten lakhs by the applicant and on condition not to change nature, colour, character of the vehicle and not to transfer the same to any third person and to produce the same as and when directed by this court as well as any other competent court till disposal of this case.

IO is directed to collect the sample evidence of the seized vehicle as directed by the Hon'ble Apex Court in the case of Sundarbai Amabalal (Supra) before releasing the seized vehicle in favour of the constituted attorney.

This date also stands for consideration of charge but due to non production of the accused persons from the JC the same could not be considered and the same shall be taken up for consideration on the next date.

It is pertinent to mention herein that in terms of the order of the Hon'ble High Court passed in CRR No. 3010 of 2024 with CRR No. 4338 of 2024 another sessions case No. 01 of 2025 is also being tried for disposal along-with this case.

Accused persons are remanded to JC till 20.06.2025.

Let a copy of this order be sent to the IC, Kurseong for information and compliance.

D/C by me.

.....Sd/-.....

Shri Sujit Kumar Mehrotra  
Addl. Sessions Judge, Kurseong  
JO Code No. WB 00601

SC No. 14/2024.

Later.

Date. 08.05.2025.

Applicant Aurangajeb files a Zimmanama Bond of Rs. 10,00000/- ( Rupees ten Lakhs Only).

Perused the same.

Verified and accepted. IC Kurseong PS is directed to release the vehicle in terms of Order No. 16 Dt. 08.05.2025 on proper verification, identification and receipt.

.....Sd/-.....

Shri Sujit Kumar Mehrotra  
Addl. Sessions Judge, Kurseong  
JO Code No. WB 00601



