

ST No.75 of 2021
(arising out of AJC Bose B. Garden PS Case No.48/21 dated 21/04/2021)
[CNR No. – WBHW01-003667-2021]

Order No. 82 Dated: 22-07-2025

The record is put up by petition filed on behalf of accused Md Hussain Umar Ansari, who is in J/C.

A petition is filed on behalf of the said accused person praying for production of the accused at the address at **52/1/2, Kazipara Lane, P.O-B. Garden, P.S.- Shibpur, District -Howrah**, for attending cremation ritual of his deceased father who has died on 20-07-2025. In support of such prayer, the photocopy of ‘disposal order accompany corpses sent for cremation/burial’ in Howrah P.S. U/D Case No. 256/25 dated 20-07-2025 is enclosed.

Copy of the said petition has been served upon the prosecution.

Ld. PP-in-Charge and the Ld. Advocate for the concerned accused is present.

The petition is moved.

Heard at length. Considered. Perused the materials on record.

It appears therefrom that earlier in this case, a similar prayer of another UTP namely Devendra Mishra was allowed on self-same grounds, vide order no. 71 dated 07-01-2025.

Now, it is pertinent to mention here that in circumstances where an under-trial prisoner (UTP) seeks temporary release for the purpose of performing the last rites of his deceased father, there appears to be no justifiable ground to deny such request. Nonetheless, while acceding to such a plea, the competent authority shall be at liberty to impose appropriate and reasonable conditions to ensure that the said UTP does not abscond or evade the process of law. It is evident from the UTP’s application and the document annexed that his father has passed away on 20-07-2025, and as a son, his presence at the cremation ceremony is both expected and necessary.

It is apposite to clarify here that the concepts of bail and custody parole are distinct in law. Grant of bail results in the release of an accused from judicial custody, subject to conditions, while the court retains constructive control over his movements through sureties. Custody parole, *per contra*, signifies a temporary release of a person from incarceration on account of an emergent personal situation, wherein the custody technically continues, and the prisoner remains under the escort and supervision of prison authorities.

Therefore, considering the attending facts and circumstances and the exigency of the demise of the father of the accused Md. Hussain Umar Ansari, I am of the considered opinion that prayer of this accused may be allowed.

Accordingly, the petition dated today filed by the accused UTP namely Md. Hussain Umar Ansari is allowed.

(...contd...)

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The UTP Md. Hussain Umar Ansari, detained at Howrah District Correctional Home, Howrah is hereby granted permission for attending the 'cremation' ceremony of his father namely Late Md. Umar at **52/1/2, Kazipara Lane, P.O.- B. Garden, P.S. - Shibpur, District - Howrah**. The UTP shall be precluded from leaving the jurisdiction of P.S. - Shibpur during such period of his temporary release.

The Superintendent, Howrah District Correctional Home, shall provide the requisite police escort to the said accused/UTP, Md. Hussain Umar Ansari, only upon being satisfied regarding the arrangement of appropriate vehicular transport. Such escort shall be provided strictly for the limited purpose as prayed for by the UTP. The said UTP, Md. Hussain Umar Ansari, shall be taken solely the place, as mentioned hereinabove, for attending the cremation ceremony of his father, under continuous police escort.

During the period of the aforesaid temporary release, the Superintendent of Howrah District Correctional Home shall be at liberty to impose reasonable restrictions on the movement of the aforesaid accused/UTP and shall ensure that he is duly returned to the correctional home immediately upon the expiry of the said period. It is further directed that no charge of any kind shall be levied upon the accused/UTP by any Government official in connection with the provision of police escort during such temporary release.

On the other hand, the concerned UTP is directed to abide by all conditions prescribed under the Jail Code.

Let copies of this order be sent to the I.G. (Prison) and to the Superintendent of Howrah District Correctional Home for their information and necessary action.

To date, i.e., **24-07-2025** for report from the Superintendent, Howrah District Correctional Home in this regard.

Dictated & corrected by me;

Sd/-
ASJ

Sd/-
Additional Sessions Judge,
4th Court, Howrah.