

Order no 10 , dt 22.04.2026

Eight accused persons namely **Md Idrish Sk, Md Robiul Islam, Milon Sk, Anarul Sk, Milon Gazi, Farjana Khatun, Jasmin Khatun and Julekha Bibi @ Sathi** are produced from J/C through VC.

Three accused persons namely Jamal Sk, Bapan @ Papan Sk and Rafikul Sk on bail are absent without taking any steps.

Today is fixed for passing order in connection with charge hearing.

Record is taken up for passing order .

Perused the case record.

It appears that in this case written complaint was lodged by PSI Rajdeep Ghosh before the Inspector In Charge of Murshidabad PS on the allegation that on getting source information that some Bangladeshi nationals entered into Indian territory without any passport and visa and they were going to Ranjitpara area, he himself along with force went to Ranjitpara more, under District Murshidabad and found that nine persons and one child was loitering suspiciously at that area and seeing the police party they tried to flee away but they managed to detain them and on interrogation they came to know that eight of them are Bangladeshi national and they had entered into India illegally without any passport and one of them namely Jamal Sk helped them to come to india illegally in liue of cash. The case was started against them U/s 14A of the Foreigners Act and after investigation charge sheet has been submitted U/s 14A of Foreigners Act against eleven accused persons.

Ld. Advocate for the accused persons has contended that the eight accused persons namely **Md Idrish Sk, Md Robiul Islam, Milon Sk, Anarul Sk, Milon Gazi, Farjana Khatun, Jasmin Khatun and Julekha Bibi @ Sathi** are in custody who are alleged to be Bangladeshi Nationals and they entered into India without any valid documents and therefore the charge may be framed against them U/s 14 of Foreigners Act but not U/s 14A of the Foreigners Act as they have not entered into any restricted area as mentioned U/s 14A of the Foreigners Act.

He has furhter argued that unless the concerned persons entered into any restricted area no charge can be framed against them U/s 14A of the Foreigners Act and the place i.e. Ranjitpara more, under District Murshidabad where the accused persons were found is not such a place of restricted area as per the list of restriction area. In support of his contention Ld. Advocate for the accused has reffered and relied on the decision of the Hon'ble High Court, Calcutta reported in **2009 CRI.L.J. 1186**.

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On the other hand Ld. PP in charge argued that as per Section 14A(b) of the Foreigners Act if a person enters into India without the valid documents for such entry is liable to be prosecuted U/s 14A of Foreigners Act and the present eight accused persons as stated above are being Bangladeshi Nationals entered into India without any valid documents requiring such entry are therefore come within the purview of Section 14A of the Foreigners Act.

In support of his such contention he has referred and relied on the decision of the Hon'ble High Court Calcutta dated 21.08.2014 in the case of **Samirul Mondal @ Sumon Vs State of West Bengal (CRR 725 of 2014)**.

I have respectfully gone through the aforesaid two decisions of the Hon'ble High Court Calcutta.

In the decision reported in **2009 CRI. L.J. 1186** the fact was that FIR was lodged u/s 14 Foreigners Act and charge sheet was also filed U/s 14 Foreigners Act and cognizance was taken thereon. But the concerned Ld. Judicial Magistrate committed the case to the Ld. Sessions Court with observation that the case is triable by Sessions Court. But the Ld. Sessions Court remitted back the case to the Ld. Magistrate with observation that the case is not triable by the Magistrate and subsequently the matter was referred to the Hon'ble High Court and the Hon'ble High Court was pleased to hold that the case is not triable by the Court of Sessions.

Whereas in the decision of the Hon'ble High Court in the case of **Samirul Mondal @ Sumon Vs State of West Bengal (CRR 725 of 2014)** charge was framed U/s 14A of the Foreigners Act against the accused persons which was challenged before the Hon'ble High Court on the ground that the accused persons did not enter into any restricted area for which no charge should have been framed against them U/s 14A of the Foreigners Act. It is also found that in the said decision charge sheet was submitted U/s 14A of the Foreigners Act. In that case Hon'ble High Court has been pleased to discuss the provision U/s 14A of the Foreigners Act. The Hon'ble High Court was also pleased to discuss the aforesaid decision of the Hon'ble High Court reported in **2009 CRI. L.J. 1186** (Tarikul Islam Sarkar Vs State of West Bengal) as relied by the Ld. Defence counsel. Hon'ble High Court has been pleased to observe that “ **while entry or stay into India with valid visa/ passport/ travel document as prescribed is punishable under Section 14A(b) of the Act, overstaying in India after entering the country on a valid travel document or acting in violation of the conditions laid down in such travel document is punishable as a lesser offence under Section 14 of the Act**”.

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In the present case FIR was lodged U/s 14A(b), charge sheet was submitted U/s 14A(b) and after elaborate discussions Ld. ACJM, 2nd Court, Lalbagh committed the case with observation that the case is triable by Sessions Court. Therefore, the decisions of the Hon'ble High Court, Calcutta reported in **2009 CRI. L.J. 1186** as relied upon by the Ld. Defence Counsel is not applicable in the facts and circumstances of the present case.

Section 14A of the Foreigners Act provides that :- “Whoever

a) enters into any area in India, which is restricted for his entry under any order made under this Act or any direction given in pursuance thereof, without obtaining a permit from the authority, notified by the Central Government in the Official Gazette, for this purpose or remains in such area beyond the period specified in such permit for his stay; or

b) enters into or stays in any area in India without the valid documents required for such entry or for such stay, as the case may be, under the provisions of any order made under this Act or any direction given in pursuance thereof, shall be punished with imprisonment for a term which shall not be less than two years, but may extend to eight years and shall also be liable to fine which shall not be less than ten thousand rupees but may extend to fifty thousand rupees; and if he has entered into a bond in pursuance of clause (f) of sub-Section (2) of Section 3, his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting court why such penalty should not be paid by him”

Admittedly the place where the accused persons were apprehended is not a restricted area but they have illegally entered into the territory of India without any valid document required for such entry they will come within the purview of Section 14A(b) of the Foreigners Act.

Considering all the aspects and in view of the decision of the Hon'ble High Court, Calcutta dated 21.08.2014 in the case of **Samirul Mondal @ Sumon Vs State of West Bengal (CRR 725 of 2014)** I am of considered view that charge should be framed against the said eight Bangladeshi Nationals namely **Md Idrish Sk, Md Robiul Islam, Milon Sk, Anarul Sk, Milon Gazi, Farjana Khatun, Jasmin Khatun and Julekha Bibi @ Sathi** U/s 14A(b) of the Foreigners Act.

On the other hand other three accused persons namely Jamal Sk, Bapan @ Papan Sk and Rafikul Sk are Indian citizens and the allegation against them is that they supported the said Bangladeshi Nationals in their illegal act of entering into India without required document and therefore charge should be framed against them U/s 14 Foreigners Act.

In view of the above discussions I am of considered view that charge is to be framed against accused **Md Idrish Sk, Md Robiul Islam, Milon Sk, Anarul Sk, Milon Gazi, Farjana Khatun, Jasmin Khatun and Julekha Bibi @ Sathi** U/s 14A(b) of the

Foreigners Act and charge is also to be framed against accused Jamal Sk, Bapan @ Papan Sk and Rafikul Sk U/s 14 of Foreigners Act.

Fix **06.06.2026** for framing of charge, production and appearance of the concerned accused persons.

Eight accused persons namely Md Idrish Sk, Md Robiul Islam, Milon Sk, Anarul Sk, Milon Gazi, Farjana Khatun, Jasmin Khatun and Julekha Bibi @ Sathi are to be produced physically before the Court on the date fixed.

The Superintendent, Berhampore Correctional Home is directed to produce the accused persons physically before the Court on the date fixed.

Three accused persons namely Jamal Sk, Bapan @ Papan Sk and Rafikul Sk who are on bail are directed to be present before the Court on the date fixed positively.

Sureties of the concerned accused persons are directed to produce the accused persons on the date fixed.

Let a copy of this order be sent to the Superintendent, Berhampore Central Correctional Home, Murshidabad for information and necessary action.

Dict. & Corrted. by me.

Sd/-
Addl. Sessions Judge, 2nd Court
Lalbagh, Murshidabad.

Sd/- S. Mondal
Addl. Sessions Judge, 2nd Court
Lalbagh, Murshidabad.

Memo No.

Dated.

Copy of order be sent to the Superintendent, Berhampore Central Correctional Home, Murshidabad for information and necessary action.

Addl. Sessions Judge, 2nd Court
Lalbagh, Murshidabad.