

Special NDPS Case No. 15 of 2025

CNR WBUD 01001121-2025

J.O. Code WB01460

Order No. 02

01.04.2025

Accused person Toufik Rahaman is only produced from PC.

Seen the accused chalan, forwarding regarding PC return and medical slip along with one seizure list, however, without any seized items for not being produced in Court.

I.O is present with CD.

One petition is filed with a prayer to declare the accused Toufik Rahaman and with a further prayer to send him to JJB, Raiganj. Copy served.

Heard I.O in person.

Ld. PP-in-charge is present.

Ld. Advocate for the accused Toufik Rahaman is present.

Heard both sides and perused the case record.

After hearing both sides and on perusal of the case record it appears that the I.O SI Sourav Barman was supposed to produce PC accused persons Alaf Raja and Toufik Rahaman before this Court on 03.04.2025 at 1.00 pm in compliance with order dated 28.03.2025 after completion of PC remand as granted by this Court on the order dated 28.03.2025.

I.O has produced today only the accused Toufik Rahaman from PC while till now no separate forwarding and/or report is received from the I.O regarding non-production of another PC accused and/or production of him on the said stipulated date.

In the present facts and circumstances, Court has seen the forwarding with PC return report relating to accused Toufik Rahaman. It appears that I.O has submitted the instant PC returned report in compliance with order dated 28.03.2025 where I.O was directed to submit a complete report as to juvenility of the accused Toufik Rahaman by the date fixed, i.e., 03.04.2025 at 1.00 pm whereas he has submitted a report therewith by today. In this regard on minutely perusal of the said report and one seizure list produced therewith, it appears that I.O seized original birth certificate of Toufik Rahaman, the accused herein, S/o-Ajjul Haque and one original school leaving certificate of the said accused from Moynagodi Elahi Boksh A.U. High Madrasa (HS) including one copy of Aadhar card while no such seized documents are produced in Court. From the report of I.O it appears that he stated in his report that the father of the PC accused Toufik Rahaman submitted birth certificate, School certificate and Aadhar card of accused Toufik Rahaman whose juvenility is in question. It is in his report that on perusal thereof he found the date of birth of said Toufik Rahaman was 22.05.2007 and at the same time it is further in his report that the documents produced by him need to be properly and physically verified in order to ascertain the actual age of said Toufik. It is also in his report that said Toufik Rahaman has been treated as CCL.

In view of the aforesaid facts and circumstances on conjoint reading of the contents of seizure list and the report regarding PC return of said Toufik Rahaman, the report appears to be otherwise defective for having contradiction as to the seizure of those original documents as per seizure list and submission thereof by the father of said Toufik Rahaman to the I.O as per his report. Court has taken a serious note on such act and conduct by the I.O with regard to submission of such report before this Court where Court has only one alternative and i.e. to take appropriate legal step in this regard so far as the issue is concerned with juvenility of an accused and having more than sufficient time in hand to deal with the issue and to submit a complete report thereof and further more which the I.O did not do so. It is surprising for the Court itself that in one hand Court has been given a seizure list regarding seizure of original document relating to date of birth of said Toufik Rahaman without producing any original documents thereof and other hand only the report of I.O without being supported any single document as to the truth and/or legally acceptable substance as to contents specially to the extent of age of said Toufik Rahaman.

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At this stage, at the time of passing order I.O SI Sourav Barman submits one prayer mentioning therewith that another PC accused Altaf Raja is yet to be produced and with a prayer to submit complete report on juvenility after further verification and it has been forwarded by the Ld. District PP.

Accordingly, in the present facts and circumstances, instant Court is neither in a position to accept the report as satisfactory nor ay position to disregard plea of the defence as to juvenility of said Toufik Rahaman in whose favour Ld. Advocate of him could produce only xerox copy of the birth certifiante of said Toufik Rahaman from which it appears that date of birth of said Toufik is 22.05.2007.

Hence, it may apparently be seen that as per said birth certificate issued by Madhamgram Municipality vide registration No.0500/07 dated 07.06.2007 that date of said Toufik Rahaman may be 17 years 10 months and few days and in view of Section 9 of Juvenile Justice (Care & Protection) Act read with Rule 12 framed thereunder. I am of the opinion that the accused may be juvenile as the date of birth as appears to have been recorded is 22.05.2007 of the accused and so he is of under 18 years.

In the circumstances, accused **Toufik Rahaman appears** to be below the age of 18 years for the time being, accordingly he is directed to be produced before the Juvenile Justice Board, Raiganj **today, i.e., on 01.04.2025** along with a copy of the relevant portion of the record in view of Section 9 of the Juvenile Justice (Care & Protection) Act until a complete comprehensive report is received otherwise from the I.O.

It is further ordered that for the prayer of the I.O. made at late and so in case of any hardship let said Toufik Rahaman be produced to CCL Boys, Rajbari at Durgapur for the day and he be produced before the Juvenile Justice Board, Raiganj positively by tomorrow.

In view of the aforesaid, I.O is directed to present in person with complete comprehensive report in support of said Toufik Rahaman by the date fixed positively with a separate explanation report as to why he submitted such report in Court today and the seizure list without seized document when issue was exclusively related with juvenility of the accused in question .

To 03.04.2025 for production of accused Toufik Rahaman and I.O.'s report.

Let copies of the order be forwarded to the Principal Magistrate, Juvenile Justice Board, Raiganj, Uttar Dinajpur for information and taking necessary action and Superintendent, Raiganj District Correctional Home, Uttar Dinajpur for information and compliance.

Let a copy of this order be handed over to the I.O. for compliance.

D/C by me

Judge, Special Court,
Raiganj, Uttar Dinajpur

Judge, Special Court,
Raiganj, Uttar Dinajpur