

09/24.10.2025

Today is fixed for taking evidence and also for hearing a petition praying for bail in respect of all the accused persons.

All the 3 accused persons namely Musaraf Sk @ Jahar Ahamed, Golam Faruk @ Omar Faruk and Sehena Khatun are produced from JC.

No witness has turned up today.

Heard Ld advocate for the accused persons in respect of the bail application filed on the last occasion on behalf of all three accused persons.

It is submitted on behalf of the accused persons that due to certain technical reasons, the accused persons are entitled to get an order for bail.

Ld. advocate for the petitioner/ accused persons submitted that at the time of arrest, his clients were not informed about the grounds of arrest by the arresting police officer which was a mandate as per law. Ld Counsel by referring the Memo of Arrest of all the three accused persons further submitted that nowhere in the Arrest Memo it has been reflected that the accused persons were elaborately explained about the ground of his/her arrest. Ld Counsel referred the Judgement of the Hon'ble Apex Court passed in Criminal Appeal @ SLP (Crl.)13320 of 2024 [Vihaan Kumar – Vs – State of Haryana & Anr.] and submitted that as his clients were not informed by police the ground of his/her arrest, at the time of arrest, mere filling up the 'Memo of Arrest' cannot be considered as an intimation of the ground of arrest and accordingly, such arrest was a clear violation of constitutional mandate under article 22 (1). Ld Advocate prayed for bail for his clients on any term and condition with remark that when a violation of article 22 (1) is established, it is the duty of the Court to forthwith order the release of the accused and even the statutory restrictions do not affect the power of the Court to grant bail when the violation of Article 21 and 22 of the Constitution is established.

In this context, Ld advocate also referred other citation of the Hon'ble Apex Court reported in (2013) 14 SCR 713, in the case of Lalita Kumari. Ld advocate submitted that the ultimate object is to ensure that the fundamental right of the accused is not curtailed

under any circumstances. Ld advocate further submitted that the lady Sehena Khatun is in and is suffering from kind of Paralysis in her right hand. She is in need of treatment.

Ld Advocate accordingly prayed for bail in respect of all the three accused persons on any condition.

Ld PP opposed the prayer for bail of the accused persons and submitted that at the time of arrest, the accused persons were duly informed about the ground of their arrest. Ld P.P also referred the relevant pages of the CD and submitted that the accused persons of this case was arrested after following all legal procedure.

Ld P.P further emphasised that the Hon'ble Apex Court considered such matter in the year 2025 in the Judgement of Vihaan Kumar. But this case originated earlier in the year 2024 when the arrest was made. Ld P.P further submitted that the allegation are serious and the trial is continuing. If at this stage, bail is granted to the accused persons, there is every possibility that they shall abscond. Ld. P.P accordingly prayed for rejection of bail petition in respect of all the 3 accused persons.

I have perused the entire materials on record from which it reveals that the accused persons have been detained in custody since their arrest in the year 2024. But it appears that the allegations against all the 3 accused persons is of a very serious nature. The accused persons are allegedly involved in committing economic offence. Moreover, it seems that the trial is in progress and evidence of witness is being recorded.

Considering the entire factors and specially considering the fact that the allegations are of a severe nature, I am of the view that if the accused persons are granted bail at this stage, the trial may get vitiated.

Though Ld. Defence Counsel argued that the point of violation of the accused person's right under Article 22(1) of the Constitution of India can be raised at any stage of proceeding, such as soon after the arrest, pre-trial stage and at the stage of trial, on perusal of the Judgement of the Hon'ble Apex Court, referred by the Ld Defence Counsel in support of his submission, I am of opinion that the fact and situation of this case is not identical with the fact and situation of the referred case and accordingly, the view of the Hon'ble Apex Court is not applicable here at this stage in favour of the accused.

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In view of the above discussion, I am not inclined to allow the prayer for bail in respect of all the 3 accused persons.

Therefore, the bail prayer of all the 3 accused persons is rejected.

To 12.12.2025 for production of all the 3 accused persons and for taking evidence.

Issue summons accordingly. Prosecution to take necessary steps.

Alamat, if any, be produced on the date fixed.

Dictated by me

Judge

ADJ,FTC-I,Raiganj, U/D.