

53.
31-03-2026
(ct. no.08)
S. De
266045
(Interim Bail)

CRA 289 of 2021
I.A. No. CRAN 1 of 2025

In Re: Application under Section 389(1) of the Code of Criminal Procedure, 1973 / Section 430(1) of the Bharatiya Nagarik Suraksha Sanhita 2023.

And

In the matter of : Noor Islam Fakir @ Khora Badshah.

...Appellant/applicant.

Mr. Avik Ghatak,
Mr. Neil Basu,
Ms. Afreen Begum,
Mr. Sankha Biswas,
Mr. Subhrajit Dey,
Md. B.A. Sardar,
Mr. Mohasin Gain,
Ms. Oindrilla Sarkar,

...for the Applicant/Appellant.

Ms. Anasuya Sinha, Ld. APP,
Ms. Nandini Chatterjee,

...for the State.

Dictated by Arijit Banerjee, J.

1. The offence is extremely grave in nature. 174 people died in the so-called Hooch Tragedy. 240 persons suffered physical health injury.
2. The petitioner was one of the 8 persons who faced trial. 7 persons were acquitted. The petitioner was convicted under Sections 302/326/328 of the Indian Penal Code and sentenced to suffer imprisonment for life. He now prays for suspension of sentence.
3. The petitioner says that he is in custody for 14 years, 2 months and 16 days. Even paper book is not ready. Hence, early hearing of the appeal is a far cry.
4. Learned State counsel vehemently opposes the prayer. She says that given the number of people who died by reason of the criminal activities on the part of the petitioner and also keeping in mind the number of people who became seriously

ill because of the petitioner's illegal acts, no leniency should be shown to the petitioner.

5. At the moment I do not wish to dilate on the merits of the case. We see that the petitioner is in custody for more than 14 years and 2 months. Also we have our doubts as to whether it was proper to frame charge under Section 302 of the Indian Penal Code and not under Section 304 of the Indian Penal Code. Because of such doubt and also keeping in mind the ratio in the cases of **Saudan Singh Vs. State of Uttar Pradesh** reported at **(2023) 17 Supreme Court Cases 446** and **Kashmira Singh Vs. State of Punjab** reported at **(1977) 4 SCC 291**, we feel impelled to grant **interim bail** to the petitioner.
6. It is thus ORDERED that the applicant/appellant namely, **Noor Islam Fakir @ Khora Badshah** shall be released on **interim bail** upon furnishing a bond of Rs. 1,00,000/- (Rupees One Lakh) with two sureties of Rs. 50,000/- (Rupees Fifty Thousand) each, one of whom must be local, to the satisfaction of the Learned Chief Judicial Magistrate, South 24-Parganas at Alipore subject to the condition that the petitioner shall remain within the jurisdiction of Magrahat police Station except for the purpose of attending court proceedings until further orders and shall meet the Officer-in-Charge/Inspector-in-Charge of the Magrahat police station once in a week till disposal of the appeal. He shall be personally present or shall be represented by his counsel during hearing of the appeal and he shall surrender before

the Trial Court as and when called for in connection with the present appeal.

7. The department is directed to forward a copy of this order to the Superintendent of the concerned Correctional Home for immediate release of the applicant/appellant unless he is wanted in connection with any other case.
8. We clarify that the observations made by us in this order are only for the purpose of disposing of the application for suspension of sentence and the same shall have no relevance at the final hearing of the appeal.
9. This order of **interim bail** shall continue till the end of **June 2026**, or until further order whichever is earlier.
10. List the appeal on **June 8, 2026**, marked 2:00 P.M.
11. We have seen the departmental note dated December 24, 2025. We are extremely unhappy that the paper book in connection with this appeal of 2021 is still not ready.
12. We direct the department to ensure that paper book is prepared by May 15, 2026, at any cost.
13. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)