22.09.2026
Item no. 42-45.
Court No.8.
AB

CRA (DB) 259 of 2026

In the matter of : Md. Abed Khan @ Banti .....Appellant.

With

CRA (DB) 260 of 2026

In the matter of : Md. Arif .....Appellant.

With

CRA (DB) 261 of 2026

In the matter of : Wasimuddin Ansari @ Bhuma.....Appellant.

With

CRA (DB) 262 of 2026

In the matter of : Md. Tipu @ Tipua .....Appellant.

Mr. Debasish Kar,
Mr. Arka Tilak Bhadra,
Ms. Suhana Parvin,
Ms. Paramita Mukherjee .....for the Appellants.

Mr. A. K. Maity (Mohanty),
Mr. Bhaskar Prosad Banerjee,
Mr. Debayan Sen,
Mr. Debasish Tandon .....for the NIA.

Dictated by Arijit Banerjee, J.

1. 19 persons have been accused of committing offences under various Sections of the Indian Penal Code, Explosive Substances Act and Arms Act. One of the accused persons is a juvenile who has naturally been granted bail. Three other accused persons, namely, Md. Tanveer (A-6), Md. Sohaib Akhtar (A-10) and Akash

Singh (A-9) were granted bail by the learned Special Court. The bail prayer of the present appellants was rejected. Hence, these four appeals under Section 21 of the NIA Act.

2. Mr. Kar, learned advocate appearing for the appellants, argued that the present appellants stand on the same footing as the three accused persons, who have been enlarged on bail. The material on record will disclose that the alleged roles of these appellants in the alleged crime are same as those of A-6, A-9 and A-10, who have been granted bail. Hence, on the ground of parity, these appellants should also be granted bail.

3. Secondly, Mr. Kar argued that excepting Md. Tipu (A-16), the other three appellants are in custody for more than two years. Even charge has not been framed as yet. There are 85 charge sheet named witnesses. Nobody knows when the trial will begin or conclude. Hence, the appellants are also entitled to bail on the touchstone of Article 21 of the Constitution of India.

4. Mr. Kar relied on three orders of the Hon'ble Supreme Court dated 26.08.2025 in the case of ***Yatendra Kumar Vs State of UP*** reported in ***2025 Supreme (Online) (SC) 11639***, order dated 18.02.2026 in the case of ***Ashpak Basha Makandar Vs State of Maharashtra*** reported in ***2026 Supreme (SC) 189*** and order dated 19.05.2026 in the case of ***Barnali Bag Vs Union of India*** reported

in ***2026 Supreme (SC) 994***, in support of his argument that an accused cannot be kept in incarceration for an indefinite period of time without taking the trial to a speedy conclusion.

5. Mr. Maity, learned Senior Counsel representing NIA, vehemently opposes the prayers of the appellants. He argued that the appellants do not stand on the same footing as the three accused persons, who have been granted bail, apart from the juvenile accused. He takes us through the material on record. We have seen statements of witnesses recorded under Section 183 B.N.S.S., 2023. We have seen results of TI Parade. The results of Photo Identification have also been placed before us. Forensic reports have also been shown to us.
6. Mr. Maity vociferously argued that Md. Tipu (A-16) has a long list of criminal antecedents. Several cases under various Sections of the Indian Penal Code and other Statutes including Section 302 IPC and Sections 25/27 of the Arms Act are pending against him. He is a well known antisocial person and can be described as a history-sheeter. There is every possibility that if he is enlarged on bail, he will again commit criminal offences.
7. As regards Wasimuddin Ansari @ Bhuma (A-3), Mr. Maity argued that this accused also has at least four criminal cases pending against him including Bhatpara P.S. Case No.39 of 2021 Dated 21.01.2021 under

Sections 326/307/34 IPC and adding Section 302 IPC and Sections 25/27 of the Arms Act subsequently. Learned Counsel strenuously opposed the prayer for bail made by accused Wasimuddin Ansari @ Bhuma.

8. Mr. Maity also argued that Md. Arif (A-2) has at least one criminal case pending against him. Hence, the Court should be slow to allow his prayer for bail.

9. As regards Md. Abed Khan @ Banty (A-1), Mr. Maity fairly submitted that it does not appear that the said accused has criminal antecedent.

10. Mr. Maity relied on the observations of the Hon'ble Supreme Court in the recent decision in the case of ***Rakesh Mittal Vs Ajay Pal Gupta @ Sonu Chaudhary*** reported in ***2026 SCC Online SC 211*** and in particular paragraphs 16 to 18 thereof, in support of his submission that the Court should be slow in granting bail to accused persons with criminal antecedents. Paragraphs 16 to 18 of the said judgment read as follows:

> "16. Neeru Yadav v. State of Uttar Pradesh was a case where bail had been granted to a history sheeter, charge sheeted for a number of heinous offences, on the ground of parity. Observing that liberty is a priceless treasure for a human being and is a cardinal value on which civilization rest, this Court cautioned that liberty of an individual would however not be absolute as society, by its collective wisdom and through the process of law, can withdraw liberty that has been sanctioned to an individual when such an individual becomes a danger to the collective and to the societal order. It was further observed that the High Court must exercise its

discretion cautiously and when there is likelihood of offences being repeated or there is a danger of justice being thwarted by grant of bail, these are factors which should be taken into consideration while dealing with an application for bail. It was further observed that cancellation of bail if the accused misconducted himself or due to some intervening circumstances is in a different compartment altogether from examination of an order granting bail which was unjustified, illegal or perverse. It was held that, if in a case, the relevant factors which should have been taken into consideration while dealing with the application for bail have not been taken note of or it is founded on irrelevant consideration; indisputably the superior court can set aside such a bail order. Per this Court, such a case would belong to a different category and in a separate realm, as it delves into the justifiability and soundness of the order passed by the Court.

17. Again, in Neeru Yadav v. State of UP, this Court observed that a crime, though committed against an individual, may not retain an individual character as the victim may be an individual but, in the ultimate eventuate, it is the society which is the victim. Further, observing that a crime, as is understood, creates a dent in the law and order situation and disturbs orderliness, this Court held that an individual can enjoy his liberty which is definitely of paramount value but he cannot be a law unto himself and he cannot cause harm to others. It was held that an individual cannot be a nuisance to the collective or a terror to the society. Reference was made to the observations of E. Barrett Prettyman, Chief Judge of the US Court of Appeals (Retired) which read thus :-

“In an ordered society of mankind there is no such thing as unrestricted liberty, either of nations or of individuals. Liberty itself is the product of restraints; it is inherently a composite of restraints; it dies when restraints are withdrawn. Freedom I say, is not an absence of restraints; it is a composite of restraints. There is no liberty without order. There is no order without systematised restraint. Restraints are the substance without which liberty does not exist. They are the essence of liberty. The great problem of the democratic process is not to strip men of restraints merely because they are restraints. The great problem is to design a system of restrains which will

> nurture the maximum development of man's capabilities, not in a massive globe of faceless animations but as a perfect realization of each separate human mind soul and body; not in mute, motionless meditation but in flashing thrashing activity".
>
> Noting that the High Court in that case had totally ignored the criminal antecedents of the accused and what had weighed with the High Court was only the doctrine of parity, this Court set aside the bail granted to the accused therein.
>
> 18. In Sudha Singh v. State of Uttar Pradesh, a 3-judge Bench of this Court was dealing with the validity of a bail order passed in favour of an alleged contract killer. This Court found that the High Court had simply ignored the criminal antecedents of that accused. It was observed that though liberty is important, even that of a person charged with crime, it is equally important for the Courts to recognize the potential threat to life and liberty of victims/witnesses, if such an accused is released on bail."

11. We have given our anxious consideration to the rival contentions of the parties.

12. We have seen the material/evidence on record. Prima facie, the roles of Md. Tipu (A-16) and Wasimuddin Ansari (A-3) appear to be conspicuous in the alleged crime. They also have several criminal antecedents. The charges which are pending against them in the other cases include the charge of murder. We are not inclined to allow their prayer for bail, at least at this stage.

13. CRA (DB) 261 of 2026 and CRA (DB) 262 of 2026 stand dismissed.

14. Insofar as Md. Abed Khan @ Banty (A-1) and Md. Arif (A-2) are concerned, upon perusal of the material on

record, we do not find that they had any primary role to play in the alleged incident. They appear to be more or less similarly circumstanced as Md. Tanveer (A-6), Md. Sohaib Akhtar (A-10) and Akash Singh (A-9), who have been extended the privilege of bail by learned NIA Court. The sole criminal case that is pending against Md. Arif (A-2) does not have the charge of murder.

15. In view of the aforesaid and also considering that Md. Abed Khan and Md. Arif have been in custody for more than two years; charge has not been framed; there are 85 charge sheet named witnesses and it is anybody's guess as to when the trial will begin or conclude, we are inclined to allow their prayer for bail and hence, we allow their prayer.

16. The appeals of Md. Tipu (A-16) and Wasimuddin Ansari (A-3) stand dismissed. We are unable to allow their prayer for bail solely on the ground of long period of detention keeping in mind the long list of criminal antecedents that they have. We have also noted that Md. Tipu was absconding and could be apprehended only on April 17, 2025. Hence, the chance of Md. Tipu absconding again, if granted bail, cannot be ruled out.

17. Accordingly, we direct that the appellants, namely Md. Abed Khan @ Banti in CRA (DB) 259 of 2026 and Md. Arif in CRA (DB) 260 of 2026 shall be released on bail upon furnishing a bond of Rs.10,000/-each, with two

sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Kolkata, and on further conditions that they shall not leave the geographical limits of North 24 Parganas district until further orders and shall report to the NIA Police Station, New Town, once in a week, until further orders and shall not enter the territorial jurisdictions of Bhatpara Police Station and Jagaddal Police Station until further orders.

18. The appellants shall appear before the NIA Court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence and/or commit any cognizable offence in any manner whatsoever.

19. In the event the appellants fail to adhere to any of the conditions stipulated above without justifiable cause, the NIA Court shall be at liberty to cancel the appellants' bail in accordance with law without further reference to this Court.

20. CRA (DB) 259 of 2026 and CRA (DB) 260 of 2026 stand allowed.

21. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Rishad Medora, J.) **(Arijit Banerjee, J.)**