

**IN THE HIGH COURT AT CALCUTTA**  
**Criminal Appellate Jurisdiction**  
**(Appellate Side)**

**CRA(DB) 123 of 2024**

**With**

**CRAN 1 of 2024**

**Arnab Dam**

**v.**

**The State of West Bengal**

**Before: The Hon'ble Justice Arijit Banerjee**  
**&**  
**The Hon'ble Justice Apurba Sinha Ray**

**For Petitioner** : **Mr. Arnab Dam (in-person),**

**For the CID.** : **Mr. Neguive Ahmed, Spl.P.P.**  
**Ms. Trina Kundu, Adv.**  
**Ms. Priyanka Chowdhury, Adv.**

**Judgment On** : **12.05.2026**

**Arijit Banerjee, J.:-**

1. The petitioner and 22 other accused persons were convicted under Sections 121/121A/122/302 read with Section 120B of the Indian Penal Code, Sections 16(1)(a)/18/20/38/39 of the Unlawful Activities (Prevention) Act, 1967, Sections 3 and 4 of the Explosive Substances Act, 1908 and under Section 25 (1AA) and 27 (3) of the Arms Act, 1959 and were sentenced to suffer imprisonment for life. The petitioner says that he is in custody for about 9 years, for 7 years pre-conviction and 2 years post-conviction. He was

granted bail on April 11, 2019. He was again taken into custody upon being convicted on February 27, 2024. He prays for suspension of sentence.

**2.** The petitioner who appears in person, submits as follows:

- (i) No Test Identification Parade was held. The petitioner was sought to be identified in Court 12 years after the alleged incident.
- (ii) The conviction is based on untrue allegations is against made against the petitioner without such allegations being proved.
- (iii) The conviction is based on conjectures and suspicion.
- (iv) The petitioner was on bail for 5 years during trial. It is nobody's case that he misused the privileged of bail. Twice the conditions of his bail were relaxed.
- (v) The petitioner is a Ph.D Scholar. He is registered with the Burdwan University. He is doing research on Conservation of Forest and Forest Resources in India.
- (vi) Although other criminal cases are pending against him, he is on bail in all such cases. In no criminal case has he been convicted as yet.
- (vii) The learned Trial Judge himself has admitted that the evidence against the petitioner is weak in nature.

**3.** On the basis of the aforesaid submission, the petitioner contends that he has made out an arguable case in support of his defence. Hence, he should be granted bail pending disposal of the appeal upon suspending his sentence.

**4.** Learned State Counsel vehemently opposes the petitioner's prayer. He says that on February 15, 2010, at about 5.10-5.15 p.m., the petitioner and 70/80 other persons belonging to the banned extremist group CPIML

(Marxist), in a preplanned manner, to wage war against the State, armed with sophisticated weapons, hand grenade, bombs etc. stormed into the Silda Camp of Eastern Frontier Rifle in Bolero Cars, Pick Up Vans, Motorcycles etc., killed 24 EFR personnel, looted arms and ammunition from the camp and left shouting anti Indian and CPIML (Terrorist) Slogans.

**5.** Learned State Counsel further says that at least 4 prosecution witnesses identified the petitioner in Court. He is a renowned leader of the banned Maoist organization, Secretary of BJOBRC and functioning as a think tank for the banned organization. He was arrested with AK 47 Rifles and other ammunitions in his possession. He is facing trial in at least 15 other criminal cases filed under various provisions of law including Sections 120B/121 / 121A / 122 / 123 / 124A / 147/148/149 /302 /307/ 379/ 384/395 /436 of the IPC, Sections 25/27/35 of the Arms Act and Section 4 of the Explosive Substances Act.

**6.** Learned Counsel submits that the evidence on record prima facie demonstrates that the petitioner is the King Pin and member of the Terrorist Organization CPIML. He and other convicts directly played a pivotal role in the act of waging war against the State. He submits that considering the grave and heinous nature of the offence, the criminal antecedents of the petitioner against whom 15 cases are pending, the fact that the petitioner is a senior functionary of a banned extremist organization and the overwhelming nature of the evidence on record, based on which the charges have been proved beyond reasonable doubt, the petitioner's prayer for suspension of sentence should be rejected in the interest of justice and to preserve the morale of the security forces.

7. We have carefully considered the rival contentions of the parties.
8. The offences are very grave. The more serious of the offences are as follows:

**(i) Section 121 IPC: Waging or attempting to wage war or abetting waging of war, against the Government of India.** This offence is punishable with death or imprisonment for life.

**(ii) Section 121A IPC: Conspiracy to commit offences punishable under Section 121.** This offence is punishable with imprisonment for life or with imprisonment of either description which may extend to ten years.

**(iii) Section 122 IPC: Collecting arms, etc., with intention of waging war against the Government of India.** This offence is punishable with imprisonment for life or imprisonment of either description for a term not exceeding ten years.

**(iv) Section 302 IPC: Murder-** Punishable with death or imprisonment for life.

**(v) Section 16(1)(a) of UAPA, 1967:** Commission of terrorist Act resulting in the death of any person. This offence is punishable with death or imprisonment for life.

**(vi) Section 18 of UAPA:** Punishment for conspiracy to commit a terrorist act or any Act preparatory to the commission of a terrorist act. This offence punishable with imprisonment for a term which will not be less than 5 years but which may extend to imprisonment for life.

**(vii) Section 20 of UAPA:** Being a member of a terrorist gang or a terrorist organization which is involved in terrorist acts. This offence is

punishable with imprisonment for a term which may extend to imprisonment for life.

**(viii) Section 3 of Explosive Substances Act, 1908:** Unlawfully and maliciously causing, by any explosive substance, an explosion of a nature likely to endanger life or to cause serious injury to property. This offence, whether any injury to person or property has been actually caused or not, is punishable with imprisonment for life or with rigorous imprisonment of either description which will not be less than ten years. If the explosion is caused by any special category explosive substance, the punishment will be death or rigorous imprisonment for life.

**(ix) Section 4 Explosive Substances Act:** attempt to cause explosion or making or keeping explosive with intent to endanger life or property. This offence is punishable with imprisonment for life or with imprisonment of either description for a term which may extend to ten years whether or not any explosion takes place and whether or not any injury to person or property has been actually caused. If special category explosive substance is involved, the punishment may be rigorous imprisonment for life or rigorous imprisonment for a term which may extend to ten years.

**(x) Section 25 (1AA) of the Arms Act, 1959:** Possessing prohibited arm or prohibited ammunition in contravention of Section 7, for sale, transfer, conversion, repair, test or proof. This offence is punishable with imprisonment for a term which will not be less than 7 years but which may extend to imprisonment for life.

**(xi) Section 27(3) of the Arms Act:** Using prohibited arms or prohibited ammunition or doing any act in contravention of Section 7 resulting in death of any other person. This offence is punishable with death. (There are seems to be some confusion. For the commission of this offence Arnab has been sentenced to suffer three months imprisonment).

**9.** The petitioner has been identified by at least three prosecution witnesses as being a part of the group which attacked the SILDA camp. P.W. 30, Gobinda Shil, on recall, identified the petitioner in Court. P.W. 30 was an independent witness. He had been taken to a meeting of the Maobadi group for indoctrination and joining the group.

**10.** P.W. 34, Bishnu Sing Chettri was posted at the SILDA camp on the relevant date. He deposed that on the relevant date Maoist persons attacked the SILDA camp with bombs and guns. At that time he was in the camp. He received fire injury in his right leg. His batch mate Kanteshwar Basumatari and Arindra Rava also received fire injury on their bodies. The attackers/miscreants trespassed into the camp and looted fire arms and ammunitions. 24 EFR persons were killed 3 were injured including himself. He identified the petitioner and another accused Lochan Singh Sardar on dock.

**11.** Another injured eye witness is P.W. 39, Lالبahadur Pradhan. He deposed that he was a constable in the 2<sup>nd</sup> Ballalion and was posted at Silda Camp on the relevant date. He was on gate duty. At 4.50/5.00 P.M. during duty change time the Camp was attacked by a Maoist group. Several miscreants fired from their fire arms from 3 sides of the camp. He was hit by AK 47 bullets on his right knee and left leg. The miscreants looted arms and

ammunitions from the camp. He saw the miscreants when they entered the camp. He identified the present petitioner on dock.

**12.** The 3<sup>rd</sup> Investigating Officer, S.K. Sekh Taj Muhammad who deposed as P.W. 65, identified this petitioner and stated in his evidence that this petitioner is a renowned leader of the banned Maoist organization and functioning as a Think Tank. He was arrested with AK 47 rifles and other ammunitions.

**13.** We therefore see that at least prima facie there is sufficient incriminating evidence against this petitioner. The fact that TIP was not held is not necessarily fatal to the prosecution case. At least two injured eye witnesses and one independent witness identified the petitioner on dock.

**14.** The petitioner argues that the injured witnesses could not have been identified in twelve years after the incident. We do not agree with him. It is not unusual or improbable that the injured eye witnesses would remember the faces of some of the miscreants involved in such a major terrorist attack on a police camp. In fact, an injured witness is more likely to remember the details of the incident and the faces of the people involved therein.

**15.** In view of the prima facie incriminating evidence against the petitioner and the exceptional gravity of the offences which the petitioner has been found to have committed causing death of 24 police personnel and injuring three persons, we are not inclined to allow this application for suspension of sentence. It cannot also be said that there is undue delay in the disposal of the appeal preferred by the petitioner and therefore Article 21 of the Constitution comes into play. The appeal is of 2024. It is expected that the appeal will be heard within a reasonable period of time.

**16.** CRAN 01 of 2024 is dismissed. There will be no order as to costs. We clarify that the observations made in this judgement and order are prima facie and only for the purpose of disposing of the present application. None of the observations will have any bearing on the hearing of the petitioner's appeal.

**17.** We further clarify that since the petitioner says that he is a Ph.D Scholar, the superintendent of the concerned Correctional Home shall ensure that all reasonable facilities are made available to the petitioner to enable him to pursue his research work from the correctional home.

**18.** Urgent certified photocopy of this judgment and order, if applied for, be given to the parties upon compliance of necessary formalities.

**I agree.**

**(Apurba Sinha Ray, J.)**

**(Arijit Banerjee, J.)**