

THROUGH SPECIAL MESSENGER

Crl. P.No.1163 of 2021-(SC) AD
Appellate Division,
Supreme Court of Bangladesh
Dated 2021

From: The Assistant Registrar
Appellate Division,
Supreme Court of Bangladesh.

To: The Deputy Registrar (attached to S. C. A. Section)
High Court Division,
Supreme Court of Bangladesh

Subject: Criminal Petition for Leave to Appeal No.1163 of 2021.

Md. Younus Ali ^A alis Younus Ali, son of late Afser Mondal, of Senbag
Laxmikol, Police Station- Natore (at present Naldanga), Natore
.....Petitioner
-Versus-
The StateRespondent

On appeal from the judgment and order dated 28-29.08.2005 passed by
the High Court Division in Death Reference No.55 of 2002 with Criminal
Appeal Nos.3801, 3539, 3851, 3885 of 2002 and Jail Appeal No.681 of
2002, arising out of Sessions Case.No.53 of 1996, as well as Natore
Police Station Case No.10 dated 12.06.1995 and G.R. No.134 of 1995 in
the Court of Additional Sessions Judge, Natore.

I am directed to enclose herewith a certified copy of the order dated
01.11.2021 passed by the Appellate Division of the Supreme Court of
Bangladesh in the above cited petition.

Sd/-
Assistant Registrar
Tel: 02-41050016
Tel: 02-9576678

ENCLO: ORDER

Copy forwarded for information and taking necessary action to:- (not as per seniority)

1. The Secretary, Ministry of Home Affairs, Dhaka.
2. The Solicitor, Government of Bangladesh, Ministry of Law,
Justice and Parliamentary Affairs, Dhaka.
- ✓ 3. The Inspector General of Prisons, Central Jail, Dhaka.
4. The learned Additional Sessions Judge, Natore.
5. Mr. Golam Abbas Chowdhury, learned Advocate, Supreme Court
of Bangladesh.
6. The Deputy Jailer, Natore District Jail, Natore.

কারা অধিদপ্তর	
অতিরিক্ত কাম প	<input type="checkbox"/> জরুরি ভিত্তিতে ব্যবস্থা নিল
কাউম প (স-দ)	<input type="checkbox"/> পরীক্ষার উদ্যোগ করল
সকা ম প (কেশি)	<input type="checkbox"/> ধরোজনীর ব্যবস্থা নিল
সকা ম প (অর্থ/আইস)	<input type="checkbox"/> আলোচনা করল
সকা ম প (উন্নয়)	
সকা ম প (পরিষ্কার/প্রশিষ্ট)	✓
এস ওপিএ	কারা মহাপরিদর্শক

Parvez

Assistant Registrar
14/11/2021

IN THE SUPREME COURT OF BANGLADESH
APPELLATE DIVISION

PRESENT:

Mr. Justice Syed Mahmud Hossain, Chief Justice
Mr. Justice Muhammad Imman Ali
Mr. Justice Hasan Foez Siddique
Mr. Justice Md. Nuruzzaman
Mr. Justice Obaidul Hassan

CRIMINAL PETITION FOR LEAVE TO APPEAL NO.1163 of 2021.

(From the judgment and order dated 28-29.08.2005 passed by the High Court Division in Death Reference No.55 of 2002 with Criminal Appeal Nos.3801, 3539, 3851, 3885 of 2002 and Jail Appeal No.681 of 2002).

Md. Younus Ali alias Younus Ali. :Petitioner.

-Versus-

The State :Respondent.

For the Petitioner. : Mr. Golam Abbas Chowdhury, Advocate instructed by Mrs. Madhumalati Chowdhury Barua, Advocate on-Record.

For the Respondent : Not represented.

Date of Hearing : The 1st November, 2021.

ORDER

✓ Delay in filing this criminal petition for leave to appeal is condoned.

We have heard the learned Advocate for the petitioner and perused the impugned judgment and order of the High Court Division and the other materials on record.

Considering the facts and circumstances of the case, we find no legal infirmity in the impugned judgment and order factually and legally calling for interference by this Court.

Accordingly, we find no merit in this petition and the same is dismissed.

It is submitted by the learned Advocate for the petitioner that the petitioner is in jail for the last 26 years and as such he should have been released earlier by the jail authority.

The learned Advocate further submits that since the benefit of Section 35A of the Code of Criminal Procedure was not given to the petitioner, the jail authority has not released him from custody. ✓

↷ This Division has already held in the case of Ataur Mridha alias Ataur Vs. the State (2021) 73 DLR (AD) 298 that the imprisonment for life be deemed equivalent to imprisonment for 30 (thirty) years and unless and until, the benefit of section 35A of the Code of Criminal Procedure is specifically excluded in the judgment, the petitioner or appellant, as the case may be, shall get the benefit of section 35A of the Code of Criminal Procedure. ↷

In view of the decision cited above, we are of the view that in the present case the petitioner shall get the benefit of section 35A of the Code of Criminal Procedure as in the judgment of the High Court Division such benefit has not been excluded.

The jail authority is directed to provide the benefit of section 35A of the Code of Criminal Procedure to all convicts in all cases of imprisonment including cases involving punishment of imprisonment for life unless such benefit has been excluded by the Court in the judgment.

Let this order be communicated to the jail authority by a special messenger of this Court. The Inspector General of Prison is directed to intimate the order to all the jails across the country.

↷ The office is directed to communicate this order to the Ministry of Home Affairs also. ↷

Sdt S.M. Hossain, C.T.
Sdt M. G. Mamon, A.D.
Sdt Hassan Faiz Siddiqui
Sdt Md. Nuruzzaman,
Sdt Obaidul Hasan

CERTIFIED TO BE A TRUE COPY

14/11/21
Superintendent
Appellate Division
Supreme Court of Bangladesh

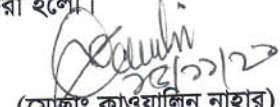
কারা অধিদপ্তর, ঢাকা।

পত্র নং-৫৮.০৪.০০০০.০২৭.০১.০২৪.২১-১৮৩৮(৭৮)

তারিখঃ ১৫-১১-২০২১

অনুলিপি (সংযুক্তসহ) অবগতি ও মহামান্য সুপ্রীমকোর্ট, আপীল বিভাগের ক্রিমিনাল পিটিশন নং-১১৬৩/২০২১ এর
রায়ে বর্ণিত নির্দেশনা মোতাবেক প্রয়োজনীয় ব্যবস্থা গ্রহণের জন্য অনুরোধ করা হলো।

সংযুক্ত : বর্ণনামতে- ০২ (দুই) পাতা।



(মোহঃ কাওয়ারশিন নাহার)
সহকারী কারা মহাপরিদর্শক (প্রশিক্ষণ)

পক্ষে- কারা মহাপরিদর্শক

ফোন- ৫৭৩০০৫১৪ (দপ্তর)।

prison.bd.statistics@gmail.com

- ১। কারা উপ মহাপরিদর্শক, সকল বিভাগ, সকল সদর দপ্তর।
- ২। সিনিয়র জেল সুপার/জেল সুপার, সকল কেন্দ্রীয়/জেলা কারাগার।
- ৩। সহকারী কারা মহাপরিদর্শক (সকল) কারা অধিদপ্তর, ঢাকা।
- ৪। ভারপ্রাপ্ত কর্মকর্তা, আইসিটি সেল, কারা অধিদপ্তর, ঢাকা। বিষয়টি ওয়েব সাইটে প্রকাশের জন্য।