

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION

(ADMIRALTY JURISDICTION)

ADMIRALTY SUIT NO. 60 of 2025.

IN THE MATTER OF:

Mohammad Rashed Ali
... Plaintiff.

VERSUS
M.V. AGIA FEVRONIA,
(IMO No. 1018248) Flag: Liberia,
and others.

... Defendants.

Mr. Mohiuddin Abdul Kadir, Advocate.
.... For the defendant No. 4-Applicant.
Mr. Muhammad Ohiullah, Adv.
...For the plaintiff-opposite party.

The 1st February, 2026

Present:

Justice Sikder Mahmudur Razi

1. Following the order of arrest of the defendant No. 1 vessel dated 18.12.2025 passed in the instant Admiralty Suit, whereby this Court directed that the vessel be kept under the custody of the Marshal of this Court as security for USD 630,000 against any prospective decree until further order, the defendant No. 4 has filed the present application seeking reduction of the security amount for release of the defendant No. 1 vessel.

2. Case of the Defendant no. 4-Applicant in short is that Defendant No. 4, is the registered owner of the defendant vessel. The security of USD 630,000 was fixed at a very preliminary stage, on a *prima facie* assumption that the plaintiff's claim related to the entirety of about 9,000

MTs of wheat cargo on board the vessel. At that stage, no discharge, segregation or joint survey had taken place and the actual extent of any alleged damage was unknown. Subsequently pursuant to the Court's order dated 18.12.2025 passed in Admiralty Suit No. 54 of 2025 relating to arrest of cargo, the factual foundation on which the security was fixed have fundamentally altered/changed. Joint survey and joint sampling were ultimately carried out on 27.12.2025 in presence of surveyors appointed by all parties. The joint survey and discharge operations clearly revealed that only a very small quantity of cargo was affected. Initially, only about 5.7 MTs were found affected during segregation, and upon completion of discharge, the total affected cargo segregated into 52 jumbo bags was determined to be only about 33.40 MTs. Laboratory test results of sealed samples further confirmed that, except for the segregated cargo, the remaining cargo was sound in all respects, including microbiological parameters. Despite this, the plaintiff has put forward shifting, inconsistent and unsubstantiated claims, at times alleging damage of 345 MTs or even 545 MTs, without producing any cogent joint survey report or scientific basis in support. The stevedores' figure of 345 MTs is wholly unexplained, and the plaintiff's higher figure is entirely unsupported by evidence. Moreover, the plaintiff itself admitted before this Court on 21.01.2026 that it had removed all sound cargo from seven lighter vessels under the custody of the Court's Marshal. This admission conclusively establishes that the dispute does not, and cannot, relate to the entire cargo. It has further been contended that the invoice value of 33.4 MTs of cargo

(CNF Value USD290/MTs) is USD 9,686.00, the invoice value of 345 MTs of cargo is USD 100,050.00 and the invoice value of 545 MTs of cargo is USD 158,050.00. Therefore, continuation of security calculated on the basis of the entire cargo is excessive, oppressive and wholly disproportionate.

3. Mr. Mohiuddin Abdul Kadir, learned advocate for the defendant no.4-applicant placing the above facts further submitted that the plaintiff has acted in violation of the Court's order dated 18.12.2025 by conducting unilateral acts in respect of the arrested cargo and removing cargo without proper joint survey and leave of the Court, disentitling itself from claiming or retaining any inequitable or penal security. The learned advocate next submitted that in admiralty law, security is intended to be protective and not punitive. Once subsequent materials demonstrate that the original basis for fixation of security no longer subsists, the Court is fully empowered to revisit and reduce the security to a level commensurate with the realistic and legally sustainable claim. Learned advocate further added that Rule 23 of the Admiralty Rules, 1912 vests wide discretionary power in this Court to vary, reduce or enhance security. In support of his submission the learned advocate cited a decision passed in the case of *M. Monirul Islam vs. MV You Bang*, reported in 51 DLR (AD) 90. The learned advocate further argued that continuation of a security of USD 630,000, when the alleged affected cargo is limited to about 33.40 MTs, amounts to an arbitrary and penal burden on the vessel owner, contrary to settled admiralty principles, equity and good conscience. The learned

advocate finally argued that, without prejudice to all other contentions, any security, if at all required, must be strictly confined to the realistic market value of the actually affected cargo and a reasonable margin, and not on speculative, exaggerated or fictitious claims.

With these submissions, the learned advocate prays to reduce the security amount to a reasonable and proportionate sum as deemed fit and proper for release of the vessel.

4. The plaintiff contested the said application by filing written objection contending inter alia that the application filed by defendant No. 4 is wholly misconceived, not maintainable in law. No cause of action has arisen in favour of defendant No. 4 to file the instant application. The security was fixed by this Court after hearing all parties, and the defendant No. 4 voluntarily submitted to the jurisdiction and order of this Court. The application is barred by the principles of *estoppel*, waiver and acquiescence, inasmuch as defendant No. 4 contested the fixation of security earlier and accepted the order dated 18.12.2025 without raising objections. The application is further barred by the principles of *res judicata* as embodied in section 11 of the Code of Civil Procedure, 1908.

5. Mr. Muhammad Ohiullah, learned advocate appearing for the plaintiff submitted that applying the principles as laid down in *M. Monirul Islam vs. MV You Bang*, reported in 51 DLR (AD) 90, this Court has already exercised its discretion and reduced the security amount from the claimed USD 860,000 to USD 630,000. A second reduction on the same

cause and between the same parties is impermissible in law and clearly barred by *res judicata*. The learned advocate next submitted that already his application for amendment of plaint has been allowed without any objection and by the said amendment the plaintiff's claimed amount has been increased substantially and therefore, there is no scope to reduce the security amount. The learned advocate placed before this court relevant page of the charter party agreement and particularly he relied upon Clause 2 of Part II of the said agreement wherein the "owner's responsibility" has been spelt out. The learned advocate submitted that as per the said clause, "owners are to be responsible for loss of or damage to the goods or for delay in delivery of the goods only in case the loss, damage or delay has been caused by the improper or negligent stowage of the goods (unless stowage performed by shippers/Charterers or their stevedores or servants) or by personal want of due diligence on the part of the owners or their Manager to make the vessel in all respects seaworthy and to secure that she is properly manned, equipped and supplied or by the personal act or default of the Owners or their Manager." Mr. Ohiullah by referring *The Moschanthy*, reported in *Lloyd's Law Reports*, Vol. I, Part 1, page 37, submitted that the plaintiff is entitled to sufficient security to cover the amount of his claim with interest and cost on the basis of his reasonably arguable best case. The learned advocate concluded his argument submitting that in the facts and circumstances, the application for further reduction of security is devoid of legal basis, amounts to an abuse of the

process of the Court, and, if allowed, would cause serious prejudice and irreparable loss to the plaintiff.

6. I have heard the learned advocates, perused the application, the written objection, materials on record and documents submitted at the time of hearing.

7. At the very outset, it is necessary to identify the factual position as revealed from the materials placed before this Court, as such identification of the factual matrix will assist the Court in arriving at a proper conclusion on the present application.

7.1 The instant suit has been filed for recovery of damages and compensation suffered by the plaintiff due to damage of cargo on board the defendant vessel alleging that the damage is attributable to the unseaworthiness and uncargoworthiness of the vessel right from the very beginning of the voyage and also due to negligence, mishandling and breach of duty of care for the cargo. It has further been stated that the imported wheat is no longer fit for human consumption. From the schedule of claim as it was in the original plaint it appears that the same was formulated as follows;

SL No.	Particulars	Amount in USD
1)	Loss of cargo value, the wheat being unfit for human consumption @ USD 50/MT. (9000x50)	450,000.00
2)	Forced downgrading, disposal and/or destruction of contaminated cargo@ USD	180,000.00

	20/MT (9000x20)	
3)	Loss of market and contractual exposure (lump sum basis)	100,000.00
4)	Survey, inspection, sampling, segregation and disposal costs;	50,000.00
5)	Port, storage, handling and related expenses;	50,000.00
6)	Interest, legal costs and all consequential losses. 30,000.00	30,000.00
	Totalling=	860,000.00 equivalent to BDT 10,57,80,000.00 (@1 USD=123 BDT)

Subsequently, by way of amendment the plaintiff enhanced the suit value and adds an extra schedule as Schedule- B under the heading “Damage and Shortage Statement” which is as follows:

Vessel	MV AGIA FEVRONIA (IMO no. 1018248)
Contract Unit Price (USD/MT)	US\$ 295.00
USD to BDT Exchange Rate	Taka 122.50

SL No .	Description	Quantity (MT)	Contract Unit Price (USD)	Amount (USD)	USD to BDT Exchange rate	Amount (BDT)
1	Lighter (Last Lighter-Damage Cargo)	545	\$295.00.	\$160,975.00	12.50	1,97,19,437.50
2	AL NAMARA 4-Damage Cargo	200	\$295.00	\$59,000.00	122.50	72,27,500.00
3	Estimated Weight Shortage (AGIA FEVRONIA)	255	\$295.00.	\$75,225.00	122.50	92,15,062.50
4	Segregation Market Loss	7500	\$30.00	\$225,000.00	122.00	2,75,62,500.00
	TOTAL CLAIM VALUE			\$520,200.0		6,37,24,500.00

7.2 Pursuant to the Court’s order dated 18.12.2025 passed in Admiralty Suit No. 54 of 2025 relating to arrest of cargo, a Joint survey and joint sampling were ultimately carried out on 27.12.2025 in presence of

surveyors appointed by all parties. The joint survey and discharge operations mentioned that only a very small quantity of cargo was affected. Initially, only about 5.7 MTs were found affected during segregation, and upon completion of discharge, the total affected cargo segregated into 52 jumbo bags was determined to be only about 33.40 MTs. Laboratory test results (Page 16 of the list of documents supplied by the defendants vide entry no. 575 dated 22.01.2026) shows that, except for the sample no.2 marked as “Allegedly Affected Cargo”, the remaining Samples marked as “Apparently Sound Cargo” and “Admixture Cargo” was sound in all respects.

7.3 The stevedores discharging report (Page 20 of the list of documents supplied by the defendants vide entry no. 575 dated 22.01.2026) shows that they have found 345 MTs of damaged cargo. On the other hand the stevedores “Boat Note” (page 19 of the list of documents supplied by the plaintiff vide entry no. 749 dated 28.01.2026) mentioned that the total damaged cargo is 520 MTs. But the result shown in this “Boat Note” does not match with the “Daily Final Import/Export Report” of the same stevedores. These report of the stevedores as supplied by the respective parties relates to discharging the cargo from the defendant vessel to the lighter vessel namely MV JI-02. Apart from that, nothing has been placed before this court as to the quantum of damaged cargo while discharging cargoes from defendant no. 1 vessel to other lighter vessels though the plaintiff based on Joint Survey & Sampling Report conducted by “CONTROL UNION” (page 12 of the list of documents supplied by the

plaintiff vide entry no. 749 dated 28.01.2026) claimed in its amendment petition that they found 200 MTs of damaged cargo while discharging the cargoes from the defendant vessel to the lighter vessel namely *Al-Namara-4*. To controvert this assertion, the defendants placed before the Court at the time of hearing, the Stevedores' report relating to the lighter vessel *Al-Namara-4*; however, upon a careful reading thereof, I find no mention of any damaged cargo. On the contrary, the said report, relied upon by the plaintiff, indicates that the statement regarding 200 MTs of alleged damaged cargo was made solely on the basis of "buyer's information".

Furthermore, the plaintiff's assertion is that there is a shortage of 255 MTs of cargo and in support of such assertion the plaintiff relied on a survey report dated 10.01.2026 conducted by TCIS Commodity Solution (page 24 of the list of documents supplied by the plaintiff vide entry no. 749 dated 28.01.2026). On going through the said report it appears that the said survey company received instruction from consignees namely City Commodities (i.e. the plaintiff), Anowara Trading, Hassan & Brother and N. Mohammad Trading Corp for estimating the quantity of cargo loaded on board the lighter vessel etc. As per report of the said survey company the total quantity of cargo as per Bill of Lading was 60,500 MTs, whereas total discharged quantity of cargo against 40 lighter barge was 60,245 MTs (estimated). Thus they concluded that as per BL, estimated quantity of cargo i.e. 255.00 MT found shortage. However, the said report neither identifies nor mentions the name of the consignee on whose account the alleged shortage is stated to have occurred.

Additionally the plaintiff claimed USD 30.00 per MT against 7500 MTs of cargo for segregation market loss which as per learned advocate for the plaintiff is the loss suffered by the plaintiff for the deteriorated quality of the wheat.

8. Therefore, the issue for determination is whether, in the facts and circumstances of the present case, the security fixed for release of the arrested vessel calls for reduction.

It is settled law that the fixation, enhancement, or reduction of security in an Admiralty action is a matter resting in the judicial discretion of this Court. The purpose of requiring security is to ensure that the plaintiff's reasonably arguable maritime claim is adequately protected, and not to subject the defendant shipowner to an oppressive or disproportionate financial burden. The arrest and detention of a vessel is a drastic remedy and, if left unchecked, may operate oppressively. Accordingly, the Court is duty-bound to prevent abuse of its process while balancing the competing interests of the parties.

Under Bangladesh Admiralty practice, a defendant shipowner may seek reduction of security either prior to furnishing security, while the vessel remains under arrest, or even after the vessel has been released upon furnishing an initial bank guarantee. The furnishing of security and release of the vessel does not divest the Admiralty Court of its continuing supervisory control over such security. The Court may, having regard to

all relevant circumstances, direct that the security already furnished be reduced or enhanced, or that its terms or validity be regulated.

Where an application for reduction is made, the defendant is required to place before the Court credible and objective material such as survey reports, discharge records, or expert assessments demonstrating that the plaintiff's claim, as initially presented, is substantially overstated. If, upon a *prima-facie* assessment of such material, the Court is satisfied that the quantum of loss indicated by the evidence is significantly lower than the amount for which security has been fixed, the Court may revise the security to reflect a more realistic appraisal of the claim. This is a discretionary relief, to be exercised judiciously, and there is no inflexible formula governing its application.

In exercising this discretion, the Court considers, *inter-alia*, the disparity between the claimed amount and the damage shown by objective evidence, whether the plaintiff had a reasonable basis for the higher claim at the time of arrest, the likelihood of the claim being established at trial, and the need to secure a reasonable allowance for interest and costs. The guiding principle remains that the plaintiff should be secured for its genuine and reasonably arguable claim, but the defendant should not be compelled to maintain an inflated security which is unsupported by the material on record.

The legal position in this regard stands authoritatively settled by the decision of the Appellate Division in the case of *S.M. Monirul Islam*,

Proprietor of Viva Trade International vs. M/V You Bang, reported in 51 DLR (AD) 90 wherein it was held that Rules 23 and 31 of the Admiralty Rules, 1912 are merely enabling provisions and do not in any manner circumscribe the discretionary jurisdiction of the Admiralty Court to reduce or enhance the amount of a bank guarantee furnished for the release of an arrested vessel. In that case, the High Court Division reduced the security upon being satisfied, on survey evidence, that the plaintiff's claim was grossly overstated, and the Appellate Division affirmed the said approach, holding that in view of the apparent contradiction in the amount of actual damage claimed by the plaintiff the Admiralty Court exercised its discretionary jurisdiction and the revised security remained more than sufficient to cover the probable loss.

So far as the facts of the present case are concerned, it appears that the contradictions regarding the quantum of the alleged damaged cargo are manifest. The plaintiff's assertion of quality deterioration of the wheat in respect of both sound and admixture cargo is also not corroborated by the laboratory test results. The allegation of estimated weight shortage is, moreover, vague, as the report fails to specify the consignee to whom the alleged short cargo is stated to belong. Further, the plaintiff's claims under different heads are overlapping and appear to have been subsequently inflated.

Therefore, applying the above principles, this Court finds that where subsequent material discloses that the actual quantum of damage is

substantially lower than what was initially claimed, it would be unjust and inequitable to compel the defendant to continue with an excessive security. At the same time, the reduction must not be such as to leave the plaintiff inadequately secured. The Court must therefore strike a fair balance, ensuring that the revised security reasonably corresponds to the credible assessment of the claim, together with permissible interest and costs.

In the circumstances, this Court is satisfied that the ends of justice would be met by moderating/reducing the security to a level commensurate with the materials on record. Such moderation will neither prejudices the plaintiff nor will undermine the purpose of Admiralty security, but rather will prevent the arrest jurisdiction from being used oppressively or as a means of undue leverage.

Accordingly, the application for reduction of the security amount is allowed. The security amount of USD 630,000.00 (Six lac thirty thousand), earlier fixed by this Court by order dated 18.12.2025, is hereby reduced and refixed at USD 430,000.00 (Four lac thirty thousand). Upon furnishing the said security amount of USD 430,000.00 (Four lac thirty thousand), the defendant shall be at liberty to approach this Court with an appropriate prayer for release of the vessel.

(Sikder Mahmudur Razi, J:)