

**IN THE COURT OF CHIEF JUDGE, CITY SESSIONS COURT, CALCUTTA**

**NIA Special Case NO. 05 OF 2022**

**Present: Sri Soumendra Nath Das**

**Chief Judge,**

**City Sessions Court, Calcutta,**

**JO Code No.WB01132.**

**Order No. 30 dated 13.09.2023**

Today is the date fixed for production of the accused person namely, Mansur Sk. and appearance of accused persons who are on court bail, hearing of the bail petition dated 18.08.2023 filed on behalf of accused Mansur Sk., hearing of the petition u/s 439(2) Cr.P.C dated 18.07.2023 for cancellation of bail against accused persons namely, Md. Imdadul Hoque @ Anaj Master @ Imdadul Hoque, Masadul Sk., Sukchand Ali @ Sk. and Md. Tahabul Sk and also hearing of the petition filed on 11.09.2023 on behalf of the prosecution/NIA praying for extension of judicial custody from 90 days to 180 days and submission of I.O's report in final form.

The Accused persons namely,

Md. Imdadul Hoque @ Anaj Master @ Imdarul Hoque,

Md. Surabuddin Sk.,

Md. Ashik Hossain,

Toufikul Sk.,

Abir Hossain,

Sukchand Ali @ Sk.,

Sk. Namadar Ali,

Md. Sahabuddin,

Firoja Begam,

Shajahan Sk.,

Habibur Rahaman,

Masadul Haque,

Md. Osman Ali and

Md. Tahabul Sk on Court Bail are present in Court by filing hazira.

The accused person namely Mansur Ali @ Manchhur Ali @ Mansur Sk. is produced from J.C.

DSP/NIA, Kolkata has filed one petition through the Ld. Special PP, NIA praying for further extension of judicial custody of accused person namely, Mansur Ali @ Manchhur Ali @ Mansur Sk. in the interest of further investigation.

Ld. Special P.P NIA is present with the C.D.

Ld. Advocates for the accused persons are also present.

The record is placed before this Court.

The petition u/s 439(2) Cr.P.C dated 18.07.2023 for cancellation of bail against accused persons namely, Md. Imdadul Hoque @ Anaj Master @ Imdadul Hoque, Masadul Sk., Sukchand Ali @ Sk. and Md. Tahabul Sk. is now taken up for hearing.

At this stage, Ld. Special PP, NIA prays for an accommodation on the grounds stated therein .

Heard. Considered. The prayer for time is allowed.

Fix **27.09.2023** for hearing of the petition u/s 439(2) Cr.P.C dated 18.07.2023 for cancellation of bail against accused persons namely, Md. Imdadul Hoque @ Anaj Master @ Imdadul Hoque, Masadul Sk., Sukchand Ali @ Sk. and Md. Tahabul Sk.

Now the bail petition dated 18.08.2023 in respect of this accused person namely Mansur Ali @ Manchhur Ali @ Mansur Sk. is taken up for hearing.

Ld. Advocate for the accused person submits that this accused/petitioner is detained in custody for 88 days and there is no UAPA section added by the investigating agency and only IPC sections have been incorporated and all the other

accused persons are on bail except this accused/petitioner and this accused/petitioner is on the same footings with the accused persons who are on bail and he has been falsely implicated in this case and prays for bail on any terms and conditions.

Ld. Special P.P for NIA vehemently objected to the bail prayer of this accused person and submits that prior to taking up the investigation by NIA, the bail of other accused persons were granted bail by the Ld. District Court, Murshidabad and NIA thereafter filed a petition for cancellation of bail of some accused persons and sufficient incriminating materials are there in the C.D against this accused/petitioner and he prays for rejection of bail prayer of this accused/petitioner.

Heard both sides.

Perused the materials on record and C.D.

Considering the nature and gravity of the offence alleged and also considering the materials in the C.D indicating involvement of this accused/petitioner in the alleged offence, I am of the view that this is not a fit case to grant bail to this accused/petitioner. Moreover, I am of the view that if this accused/petitioner is granted bail then there is every chance of his absconding and tampering of prosecution witnesses.

Accordingly the prayer bail of this accused/petitioner Mansur Ali @ Manchhur Ali @ Mansur Sk. is **rejected**.

C.D be returned.

Now the petition filed on 11.09.2023 on behalf of the prosecution/NIA praying for extension of judicial custody from 90 days to 180 days is taken up for hearing.

Ld. Special PP, NIA submitted that this is a case u/s 120B/324/326/34 of IPC , u/s 3/4/5 Explosive Substances Act, 1908 and also the relevant sections of UA(P) Act and as per proviso of section 43D the Investigation Agency accordingly will get an opportunity to file the charge sheet beyond the period of 90 days but within 180 days and the Investigating Agency be given an opportunity to complete the investigation in terms of 43D proviso clause.

Ld. P.P further places the proviso clause of 43D and submits that if the investigating agency is unable to complete the investigation within the said period of 90 days the Court may if it is satisfied with the report of the Public prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of 90 days extend the said period upto 180 days.

Ld. P.P further submits that vide a petition dated 25.07.2023 the prosecution side had intimated this Court that in the interest of investigation sections 16 and 18 of the UA(P) Act has been invoked in the instant case.

Ld. P.P further submits that in view of the order passed by this Court on 09.08.2023 rightly observing that the question of granting permission by the Court for adding of sections of the UA(P) Act does not arise and for that reason only an intimation was filed before this Court and no further steps were taken before this Court by the investigating agency. He vehemently argued that the relevant sections of UA(P) Act has already been added during investigation so there is no embargo to extend the period from 90 days to 180 days.

Ld. P.P thereafter places reliance upon the Judgement of the Hon'ble High Court at Calcutta in Criminal Revision No. 4036 of 2015 in the case of Sayantan Chatterjee Vs State of West Bengal reported in **2016 SCC Online CAL 4573** wherein the Hon'ble High Court, Calcutta has categorically held that the accused may not have any right of audience before the Court of Ld. Magistrate during the course of investigation of the case but the accused can very well challenge any order of the Ld. Magistrate before

higher forum if the said order curtails the liberty of the accused without following the procedure of law.

Ld. P.P by relying up this judgement of the Hon'ble Court emphasised on the point that the Ld. counsel for the accused person has no right of audience before this Court to make any submission with regard to a prayer for extension of time from 90 days to 180 days. He also categorically argued that lawyer for the accused person has also no right to make any submission with regard to adding of sections by the investigating agency in course of the investigation and therefore there is no provision in law for hearing the Ld. Counsel for the accused person at this stage.

In view of the Judgement of the Hon'ble Calcutta High Court in the case of Sayantan Chatterjee Vs State of West Bengal reported in **2016 SCC Online CAL 4573** there is no right of audience to the accused person or his Ld. Counsel with regards to the prayer for adding of sections at the stage of investigation and also for extension of detention period from 90 days to 180 days.

Perused the report of the Ld. Spl. P.P of NIA. This Court finds that the report is satisfactory indicating the progress of investigation citing specific reasons for the detention of the accused.

If that be so then, prosecution is at liberty to file charge sheet beyond the period of 90 days but within 180 days.

Thus the petition filed by the prosecution is **allowed**.

Heard. Considered. The prayer is allowed in the interest of investigation.

Todate i.e. on **27.09.2023** for production of the accused from J.C and hearing of the petition u/s 439(2) Cr.P.C dated 18.07.2023 for cancellation of bail against accused persons namely, Md. Imdadul Hoque @ Anaj Master @ Imdadul Hoque, Masadul Sk., Sukchand Ali @ Sk. and Md. Tahabul Sk.

Accused Mansur Ali @ Manchhur Ali @ Mansur Sk. is remanded to J.C till date.

The accused persons on Court bail are as before.

Let a copy of this order be forwarded to the I.O for information.

Dictated & corrected by me

Sd./-

Chief Judge,  
City Sessions Court, Calcutta.

Chief Judge,  
City Sessions Court, Calcutta.