

SESSIONS CASE NO 71 OF 2022
CNR-WBCS01-001195-2022
Present: Sri Soumendra Nath Das
Chief Judge, City Sessions Court, Calcutta
J.O. CODE NO.WB01132

Order no.41 dated 09.05.2024

Today is fixed for hearing on the point of Consideration of charge and production of the accused persons.

The Accused no.(A-1), Jayeeta Das @ Rumpa is produced before this Court from J.C. in virtual mode.

Received one report from the Superintendent of Alipore Women's Correctional Home communicated vide office letter no.1525/AB dated 08.05.2024 regarding non production of the Accused no.(A-1), Jayeeta Das @ Rumpa before this Court in physical mode.

As the Accused no.(A-1), Jayeeta Das @ Rumpa is produced before this Court from J.C. in virtual mode, let the same be kept with the record.

The Accused no.(A-1), Jayeeta Das @ Rumpa is identified by the Jail Authority and she expressed that she could see and hear the entire court proceedings without any technical glitch.

The Accused no.(A-2) Pratick Bhowmik @ Kanchan who is on Court Bail in this case is produced before this Court from the J.C.

Ld. Jr. Counsels for the accused persons and the Ld. Special P. Ps. are present today.

Ld. Sr. Counsel for the accused persons is present through virtual mode.

Received one copy of solemn Judgment dated 18.04.2024 passed by the Hon'ble Supreme Court of India in connection with Criminal Appeal No(s).2128 of 2024 arising out of SLP (Crl.) No(s).7880 of 2023 from the Hon'ble Supreme Court of India communicated vide PID:101704/2024 IN CRL.A. No.2128/2024 (SEC II-B).

Perused the solemn order dated 18.04.2024 passed by the Hon'ble Supreme Court of India wherein the Hon'ble Court has been pleased to observe as follows:

"Hence, the Chief Judge cum City Sessions Court had the jurisdiction to pass the order dated 7th April, 2022. In view of the definition of the "Court" provided under Section 2 (1)(d) of UAPA, the jurisdictional Magistrate would also be clothed with the jurisdiction to deal with the remand of the accused albeit for a period of 90 days only because an express order of the Sessions Court or the Special Court, as the case may be, authorizing remand beyond such period would be required by virtue of Section 43D (2) of UAPA (reproduced supra).

Hence, to the extent the learned Chief Metropolitan Magistrate extended the remand of the accused beyond the period of 90 days, the proceedings were grossly illegal. Nonetheless, the fact remains that the charge sheet came to be filed beyond the period of 90 days and as a matter of fact, even beyond a period of 180 days, but the accused never claimed default bail on the ground that the charge sheet had not been filed within the extended period as per Section 43D of the UAPA. Hence, the only academic question left for the Court to examine in such circumstances would be the effect of evidence collected, if any, during this period of so called illegal remand, after 90 days had lapsed from the date of initial remand of the accused and the right of the accused to seek any other legal remedy against such illegal remand. Such issues would have to be raised in appropriate proceedings, i.e. before the trial court at the proper stage.

As a consequence of the above discussion, the impugned judgment dated 11th May, 2023 passed by learned Single Judge of the Calcutta High Court cannot be sustained and is hereby reversed and set aside.

The appeal is allowed accordingly.

Pending application(s), if any, shall stand disposed of.”

On perusal of the case record, it transpires that necessary steps has already been taken on 03.05.2024 in compliance with the solemn Judgment dated 18.04.2024 passed by the Hon'ble Supreme Court of India in connection with Criminal Appeal No(s).2128 of 2024 arising out of SLP (Crl.) No(s).7880 of 2023 on the basis of filing of one copy of the said order by the Prosecution.

Let the solemn order dated 18.04.2024 passed by the Hon'ble Supreme Court of India be kept with the record.

Ld. Counsel for both the accused persons files one petition u/s 227 of Cr. P.C. praying for discharging the accused persons from the Scheduled Offences i.e. sections 16, 18, 18B, 38, 39 of UA (P) Act and further proceeding in respect of the Offences other than the schedule offences under UA (P) Act in accordance with law in view of the provisions of law in UA (P) Act, 1967 and in strict compliance of the orders and observations of the Hon'ble High Court of Calcutta vide C.R..M. (DB) 3590 of 2022 dated 01.12.2022 and CRR no.3180 of 2022 dated 11.05.2023 and the order of the Hon'ble Supreme Court of India vide its Judgment in SLP (Crl.) No.7880 of 2023 dated 18.04.2024.

Copy served as per endorsement.

Let the same be kept with the record.

Received one copy of intimation from the Superintendent of Alipore Women's Correctional Home communicated vide Memo no.1507/1(2)/AB dated 06.05.2024.

Let the same be kept with the record.

The Superintendent of Alipore Women's Correctional Home is directed to ensure production of the Accused no.(A-1), Jayeeta Das @ Rumpa before this Court on the date fixed.

On submission of both sides, fix **07.06.2024** for production of the accused persons, hearing of the petition u/s 227 of Cr. P.C. dated 09.05.2024 filed on behalf of both the accused persons praying for discharging the accused persons from the Scheduled Offences i.e. sections 16, 18, 18B, 38, 39 of UA (P) Act and Consideration of charge.

Written objection, if any, in the meantime.

To-date i.e.**07.06.2024** for production of the Accused nos.(A-1), Jayeeta Das @ Rumpa and (A-2) Pratick Bhowmik @ Kanchan before this Court.

Let a copy of this order be sent to the Superintendent of Alipore Women's Correctional Home for information and necessary compliance.

D/C by me.

Sd./-
Chief Judge
City Sessions Court, Calcutta

Chief Judge
City Sessions Court, Calcutta

