

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 19 dated 09.06.2023:

Today is fixed for production of the accused person (A-1) Jayeeta Das in J.C, appearance of the accused (A-2) Pratick Bhowmick @ Kanchan who is on Court Bail and passing order.

Accused person (A-1) Jayeeta Das has been produced before this Court from J.C. in virtual mode.

Accused (A-2) PratickBhowmick @ Kanchan on Court Bail is present by filing hazira.

Learned Advocate for the accused persons and Ld P.P in Charge are present.

Perused the order dated 11.05.2023 passed by the Hon'ble High Court at Calcutta in CRR No 3180 of 2023 wherein the Hon'ble Court held as follows:-*“The issue of to whether the learned Magistrate has power to remand in spite of case involving UAPA, the Division Bench of this Court in **CRM (DB) 3590 of 2022** dated 1st December, 2022 held as under.*

26. In the light of the aforesaid discussion, we hold as follows:-

(i) Once offences under UAPA are added to a case, Magistrate is denuded of his power to remand in terms of Section 167 of the Code of Criminal Procedure (as amended in UAPA) beyond a period of 30 days;

(ii) Thereafter, the accused must be produced before the Special Court constituted under section 11 or 22 of the NIA Act (as the case may be) for the purposes of remand as well as extension of the period of remand in terms of proviso to Section 43D (2) of the UAPA;

(iii) In the absence of a Special Court constituted as aforesaid, Court of Sessions shall exercise all powers and jurisdiction of the Special Court in terms of Section 22(3) of the NIA Act including the power to remand as well as the power to extend the period of remand in terms of proviso to Section 43D(2) of the Act.

In view of the above discussion the order dated 7th April, 2022 passed by the learned Chief Judge and all subsequent orders passed by the learned Chief Metropolitan Magistrate are illegal and inoperative and liable to be quashed.

For the reasons stated above the instant revision is allowed and the impugned order dated 7th April, 2022 passed by the learned Chief Judge, City Sessions Court and subsequent orders passed by the learned Chief Metropolitan Magistrate, Calcutta are set aside.

The instant revision is accordingly allowed on contest however without cost.”

In view of such order of the Hon'ble Court I find that the order dated 7th April 2022 passed by this Court and all subsequent orders passed by the Learned Chief Metropolitan Magistrate were declared illegal and were set aside. Thus it is clear to this Court that the registration of the FIR under section 120B,121, 121A, 122, 123,124A of the I.P.C before the STF Police Station and all subsequent orders prior to 7th April 2022 were not at all set aside by the Hon'ble Court and not quashed and thus is very

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Continued order no.19 dated 09.06.2023

much in force. The Charge sheet was submitted in this case on 23.09.2022 vide C.S. no 18 dated 23.09.2022 under section 121/121A/122/123/120BIPC and 16/18/18B/20/38/39 UA (P) Act. However from the order of Hon'ble Court dated 11.05.2023 it is clear that the Court of Sessions shall exercise all powers and jurisdiction of the Special Court in terms of section 22(3) of the NIA Act including the power to remand as well as the power to extend the period of remand in terms of proviso to section 43(2) of the Act. It is also clear from the order dated 7th April 2022 passed by this Court that such procedure was not followed by this Court and thus the Hon'ble Court has only set aside the said order dated 7th April 2022 of this Court and all subsequent orders passed by the Learned Chief Metropolitan Magistrate Calcutta pursuant to order dated 7th April 2022 as the procedure as laid by the Hon'ble Court in its order dated 1st December,2022 in CRM(DB) 3590 of 2022 were not followed in the instant case. Thus the order dated 7th April 2022 passed by this Court and all subsequent orders passed by the Court of Chief Metropolitan Magistrate, Kolkata are illegal and therefore set aside. I am of the view that such procedural mistake and error cannot be cured taking recourse to section 362 of the Cr. P.C.

In view of the order dated 11.05.2023 passed by the Hon'ble Court in the Criminal Revision no 3180 of 2022 and materials on record cognizance is taken against the accused Jayeeta Das @ Rumpa and Pratick Bhowmick @ Kanchan under sections 121/121A/ 122/ 123/ 120B of the IPC. I also find from record and charge sheet that Hasibur Sk @ Hasibur and AkashUrang @ KajalUrang @ Bablu @ Sanjoy @ Suman @ Rahu have been discharged from this Court in this case.

Let a date be fixed for hearing on the point of framing of Charge against the accused Jayeeta Das @ Rumpa and Pratick Bhowmick @ Kanchan.

The petition dated 05.06.2023 filed by the Ld. Counsel for the accused persons is accordingly disposed of.

Fix **03.07.2023** for hearing on the point of consideration of Charge.

The accused no (A-2)Pratick Bhowmick @ Kanchan shall remain as before.

To date i.e. 03.07.2023 for production of the accused (A-1)Jayeeta Das @ Rumpa either in virtual mode or in physical mode.

Let a copy of this order be sent to Superintendent of Alipore Women's Correctional Home and Superintendent, Central Jail Guwahati Assam for information and necessary compliance.

D/C by me.

Sd./-
Chief Judge
City Sessions Court.
Calcutta.

Chief Judge
City Sessions Court.
Calcutta