

In the Court of Judge, Special Court & 2nd Addl. Sessions Judge, Alipore

**Special ST No. 11(04)2023**

**Special Case No. 32/2023**

CNR WBSP01-001755-2023

Ref.: Tiljala PS Case no: 24 Dated : 03/02/2023

Present : Rimpa Roy (JO Code - WB00822)

Judge, Special Court & 2nd A.S.J.,

Alipore, South 24-Parganas.

Order No. 45

Dt. 23.09.2025

Today is fixed for passing order in respect of the application dated 27.02.2025 and consideration of report of the IO.

Record is taken up for passing order over the application dated 27.02.2025 filed by the owner / petitioner Noorjahan Begum .

Petitioner Noor jahan begum / owner of premises No.33/H/1 Palm Avenue under P.S Karaya , Kolkata 19, filed a petition stating that in connection with the present case a Flat measuring about 800 sq.ft , consisting of 2 bedrooms , one hall room , I kitchen , 2 bathrooms situated on the 3<sup>rd</sup> floor was sealed by the Police and the keys were kept in the custody of the police. The petitioner has stated that she has been suffering great hardship as such she has prayed for a direction upon the investigation officer for handing over the keys of the said property to him as owner of the said property.

Investigating Officer submitted report on 18.03.2025. I.O has in his report that the petitioner is the owner / licensor and accused Md. Sahabuddin is the licensee . He stated in the report that accused is the brothel and the all the movable properties lying in the said flat belong to the accused . He stated that that the Key of the flat has been exhibited in this case . He raised objection to handover the key of the P.O to the petitioner till handing over the movable articles to the accused .

Ld. Advocate for the Petitioner / owner has submitted that IO can not seize the immovable property. He submitted that investigation has already been done and there is no bar to

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hand over the keys of the said property to the petitioner. In support of his contention he referred judgment of the Hon'ble Supreme Court reported in (2019) 20 Supreme Court Cases 119 and Hon'ble Calcutta High Court reported in 2020 0 Ld. Special P.P raised objection on the basis of the report submitted by the IO.

Heard Ld. Advocate for the petitioner /owner, Ld. Avocate for the accused ,the Ld. Special P.P. and the I.O.

Perused the petition dated 27.02.25 , report of the IO dated 18.03.25 , materials available on record and decision referred.

I have gone through the report of the IO . It appears from the report of the I.O that he verified the ownership of the present petitioner / owner Noor Jahan Begum in respect of the said property i.e the place of occurrence . I have also noticed his point of objection .

I have carefully gone through the judgment referred by Ld. Advocate for the Petitioner / accused.

On meticulous perusal of the judgment in c/w Nevada Properties Private Limited vs State of Maharashtra reported in (2019) 20 Supreme Court Cases 119 , I find that the Hon'ble Apex Court had been pleased to hold that power of Police Officer to seize "any property " under sec 102 Cr.P.C does not include power to attach , seize and seal immovable property . The power of seizure under sec102 and 457 Cr.P.C does not extend to immovable property. It was observed by the Hon'ble Apex Court that "produced" is an expression used to signify actual or physical production which would apply to movable property , immovable property can not be "produced in a Court" .

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In this case trial of the case is in progress . The key of the said flat has been exhibited in this case as M.O 3/2 in this case .

Thus , having considered the facts and circumstances and having regards to the observation of the Hon'ble Supreme Court , I am inclined to allow the prayer of the Petitioner / owner Noor Jahan Begum.

Hence, it is

**ORDERED**

that the petition dated 27.02.2025 is allowed.

The immovable property at premises No.33/H/1 Palm Avenue under P.S Karaya , Kolkata 19 , be de sealed and handed over to the petitioner / owner of the said property.

I.O is directed to **make a duplicate of the key ( M.O 3/2) of the flat at the cost of the petitioner** . He is further directed to **replace the original key( M.O 3/2) by the duplicate one after certifying the same as true copy** and keep it in the Malkhana in c/w this case .

For transparency, it is further ordered that at the time of de sealing and prior to handing over the possession of the property to the petitioner, the I.O to do the inventory of items , if any , kept in the said property and would be at liberty to handover the **articles belonging to the accused Md. Sahabuddin on interim Zimmanama after verification**. The person taking Zimma would be bound to produce those as and when called for during the course of trial of this case .

I.O is directed to make the videography of the entire de sealing and inventory and take snaps. The videography be saved in CD and stored in micro chip. The inventory report

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should be prepared and still photos, would be signed by the I.O, photographer, petitioner and the person taking Zimma. The inventory report, micro chips, still photos be kept in a sealed envelope in the CD.

De sealing and unlocking process should be done at a time and date which would be convenient for all the stake holders including the **accused Md . Sahabuddin or his representative .**

On being handed over the property to the petitioner till disposal of the case, he shall not create any third party interest in any manner, shall not use the property for any illegal purpose. He shall not change the nature and character of the property in any way. Petitioner / accused shall be bound to allow the I.O to enter into the property with the prior permission of this Court.

**The petitioner shall execute a bond of Rs.1,50,000,00/- (one crore fifty lakhs ) which shall be kept with the CD.**

The process should be completed on or before **24.10.2025**

The I.O is directed to submit compliance report on **28.10.2025 .**

Let a copy of this order be sent to the I.O for compliance and submission of report.

Return CD.

D/c by me.  
Sd/-

Judge, Special Court &  
2nd A.S.J., Alipore

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