In the Court of Judge, Special Court & 2nd Addl. Sessions Judge, Alipore
Special ST 09(03)2023
Special Case No. 333/2022
CNR: WBSP01-019276-2022
Ref.: Patuli PS/DD Case no: 272 Dated : 20/12/2022
U/s 120B/366A/370A/372/373 IPC read with sec. 4/6/17/21 of the Protection of Children from Sexual Offence Act, 2012 and Sec.3 / 4 / 5 / 6 / 7 of IT (P) Act.

Present : Rimpa Roy (JO Code - WB00822)
Judge, Special Court & 2nd A.S.J.,
Alipore, South 24-Parganas.

Order No.41
Dt. 06.05.2026

Today is fixed for order in respect of the petition filed by the petitioner Shilpi Karmakar and consideration of report filed by the IO on 09.04.2026.

Record is taken up for passing order over the application dated 13.03.2026 filed by the petitioner Shilpi Karmakar wife of Late Ajit Kumar Karmakar.

Petitioner Shilpi Karmakar, owner of the premises situated at the 2nd Floor of Anamika Apartment, Flat-S1, 63/1 Phoolbagan Road, PS Patuli, Kolkata 86, filed a petition stating that in connection with the present case the immovable property sealed by the Police and the keys were kept in the custody of the police. The petitioner has prayed for a direction upon the investigating officer for handing over the keys of the said flat in the 2nd floor of the aforementioned premises to her as owner of the said flat.

The Investigating Officer submitted report on 09.04.2026. The IO has admitted the petitioner Shilpi Karmakar as the owner in respect of the said property. She has categorically stated in her report that she has already made inventory in respect of the movable properties of deceased accused Archana Debnath @ Payel lying in the said flat and she has submitted the said inventory list before this Court on 01.08.2023.

Ld. Advocate for the petitioner Shilpi Karmakar submitted that IO can not seize the immovable property.

Ld. Special P.P has prayed for passing necessary order on the basis of the report submitted by the IO.

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Heard Ld. Advocate for the petitioner and the Ld. Special P.P.. Considered.

Perused the petition, report of the IO and the materials available on record.

I have also gone through the report of the IO. It transpires from the report of the IO that the present petitioner is the owner of the said premises.

On meticulous perusal of the judgment in c/w Nevada Properties Private Limited vs State of Maharastra 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 .

In this case after completion of investigation Charge sheet had been filed and charge has already been framed. In this case four charge sheeted witnesses have already been examined.

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.

Hence it is

ORDERED

that the petition dated 09.04.2026 is allowed.

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Contd… **Order No.41 Dt. 06.05.2026**

The immovable property situated at the 2nd Floor of Anamika Apartment, Flat-S1, 63/1 Phoolbagan Road, PS Patuli, Kolkata 86, be de sealed and handed over to petitioner Shilpi Karmakar / owner of the said property.

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 one fresh inventory of items if any, kept in the said property and would be at liberty to handover the **articles belonging to deceased accused Archana Debnath @ Payel, if any, on interim Zimmanama after proper verification to her legal representative**. 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 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.

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

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The petitioner Shilpi Karmakar shall execute a bond of Rs.50,00,000/- (Rupees Fifty Lakh only) which shall be kept with the CD.

The process should be completed on or before **15.05.2026**.

The I.O is directed to file report along with copy of inventory and bond by **21.05.2026.**

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

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