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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 4654/2017 & CRL MA 18544/2017

DIRECTORATE OF ENFORCEMENT

..... Petitioner

Through Mr. Sanjay Jain, ASG with
Mr. Amit Mahajan, Adv

versus

GAGAN DHAWAN

..... Respondent

Through None

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **10.11.2017**

Petitioner is aggrieved by the order dated 9th November, 2017 passed by the Special Judge, PMLA whereby prayer of extension of 'ED Custody' remand of the respondent made by the petitioner has been rejected.

Initially 7 days custody remand was granted to petitioner. Again an application for extending the custody remand for another 7 days was filed. Trial court granted extension of the custody remand by two days.

Again, third application was filed for extending custody remand for another five days, thereby completing the custody remand period of 15 days, as envisaged in the Cr.P.C.

The ground taken for extending custody was that the respondent had not been cooperating in the investigation. He had not

answered the questionnaire put to him by the investigating officer. He refused to make any statement with respect to the questionnaire. He gave evasive replies. It was further contended that some more time was required as certain new documents, including electronic evidence were received from the bank, with which respondent was to be confronted. It was further contended that petitioner was taken to hospital for his routine medical check up when he made false allegations of beating. Accordingly, his MLC was prepared and in the process four hours were wasted. A plea was also taken that other accused persons were yet to be arrested as they were absconding. Some more time was required for scrutinizing the documents.

While rejecting the request for extension of remand, learned Special Judge has noted that similar grounds were taken in the previous applications. It has been noted that plea taken by the petitioner that other accused persons were not traceable and were yet to be arrested, can never be a ground for further custody. It is also noted that plea taken by the petitioner that respondent was non-cooperating and had been giving evasive replies cannot be valid grounds to extend the custody. Investigators had interrogated the respondent and had recorded his statement after he joined investigation on receipt of summons even prior to his arrest. Respondent remained in 9 days of effective custody for interrogation which time was sufficient for interrogation, in as much as no sufficient reasons were furnished for further ED custody.

I have heard learned ASG and perused the entire material placed on record, including the application for extension of custody as

well as the impugned order. In my view the trial court has denied further custody remand for sufficient reasons. A careful perusal of the application indicates that primarily the plea taken by the petitioner has been that the respondent did not cooperate in investigation during this nine days period. He gave evasive replies and wasted time by making false allegations that he was beaten by the officials of the petitioner. This can be gathered from para 8 onwards of the application. This cannot be sufficient enough to keep the accused in ED custody. The other plea taken by the petitioner that other accused are yet to be arrested also cannot be a ground to extend custody remand of the respondent.

A perusal of para 17 of the application makes it clear that premises of the respondent was searched on 24th August, 2017 and documents, including digital evidence, were seized. It is also apparent that respondent's statement was recorded even before his arrest. As regards alleged new documents are concerned, averments are vague. It has not been mentioned as to on which date what documents were received from which bank.

For the foregoing reasons, petition is dismissed.

A.K. PATHAK, J

NOVEMBER 10, 2017

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