

**IN THE HIGH COURT AT CALCUTTA  
CRIMINAL MISCELLANEOUS JURISDICTION  
APPELLATE SIDE**

Present:

**The Hon'ble Justice Debangsu Basak**

And

**The Hon'ble Justice Bibhas Ranjan De**

**CRM (NDPS) 8 of 2022**

**SUBRATA ROY & ORS.  
VS.  
THE STATE OF WEST BENGAL**

For the petitioners: Mr. Debasis Kar,  
Mr. Husen Mustafi,  
Mr. Subhojit Chowdhury, Advocates

For the State : Mr. Sanjoy Bardhan,  
Mr. Nirupam Dhali, Advocates

Heard on : February 18, 2022

Judgment on : February 18, 2022

**DEBANGSU BASAK, J.:-**

**1.** Petitioners seek statutory bail in connection with Rahara Police Station Case No. 114 of 2021 dated 24.03.2021, under Sections 20(b)/21(c) of N.D.P.S. Act, 1985 now No. as N-20/2021.

**2.** Learned advocate appearing for the petitioners submits that the petitioners were arrested on March 24, 2021. According to him, the

statutory 180 days from the date of arrest expired on September 24, 2021. He refers to the order dated September 21, 2021 of the jurisdictional Court and submits that, the jurisdictional Court allowed the prayer for extension of time for completion of investigation and filing of report in final form without hearing the petitioners. No notice of such application was given to the petitioners. No report was submitted by the learned Public Prosecutor seeking the extension of time to submit the final report in terms of Section 36A(4) of the Narcotic Drugs and Psychotropic Substances Act, 1985. He relies upon **(2009) 17 SCC 631 [Sanjay Kumar Kedia alias Sanjay Kedia vs. Intelligence Officer, Narcotics Control Bureau and Another]**, in support of his contentions.

3. Learned advocate appearing for the State submits that, the application for extension of time was made within the statutory period and was filed by the learned Public Prosecutor. He submits that in the facts of the present case, the petitioners were produced on September 21, 2021 before the jurisdictional Court when the application for extension was moved. The petitioners were, therefore, aware of the petition.

4. **Sanjay Kumar Kedia (supra)** is of the following view:-

*“12. The maximum period of 90 days fixed under Section 167(2) of the Code has been increased to 180 days for several categories of offences under the Act but the proviso authorises a yet further period of detention which may in total go up to one year, provided the stringent conditions provided therein are*

*satisfied and are complied with. The conditions provided are:*

- (1) a report of the Public Prosecutor,*
- (2) which indicates the progress of the investigation,*
- and*
- (3) specifies the compelling reasons for seeking the detention of the accused beyond the period of 180 days, and*
- (4) after notice to the accused.”*

**5.** In the facts of the present case, since the petitioners were arrested on March 24, 2021, the period of 180 days will commence from March 25, 2021 with the date of the arrest and the date of remand being excluded. Therefore, 180 days period expired on September 25, 2021. On September 21, 2021 an application was filed for extension of time to complete the investigation and file a report in the final form, at the behest of the police. Such application was, however, filed by the learned Public Prosecutor. There is no material as regard to suggest that the filing was done by the learned Public Prosecutor without application of mind.

**6.** On September 21, 2021 itself as the order sheet showing that all the petitioners were produced before the jurisdictional Court. They, in fact, prayed for bail on such date, which was refused. In such circumstances, it cannot be said that the petitioners were not put on notice with regard to the application for extension which was allowed on

September 21, 2021 itself. There is no contemporaneous complaint by the petitioners of no notice.

**7.** The application itself was filed by the learned Public Prosecutor and, therefore, in the facts of the present case we are unable to hold that the application for extension did not comply with the provisions of the Act 36A(4) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

**8.** Since the prayer for bail is founded only on the provisions of 36A(4) of the Act of 1985, we are unable to grant bail to the petitioners.

**9.** Prayer for bail is rejected and CRM (NDPS) 8 of 2022 is, accordingly, dismissed.

**(Debangsu Basak,J.)**

I agree.

**(Bibhas Ranjan De, J.)**