

09.11.2022
Sl. No.15
akd
[Rejected]

C. R. M. (NDPS) 1311 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 04.11.2022 in connection with Rahara Police Station Case No. 122 of 2022 dated 24.04.2022 under Section 21(c) of the NDPS Act.

And

In Re: **Mani Roy**

... .. Petitioner

Mr. Debasis Kar

... .. for the petitioner

Mr. T. D. Nandy

Mr. Antarikhya Basu

... .. for the State

Petitioner prays for statutory bail.

We have considered the materials on record. On 28.10.2022 prosecution made an application for extension of period of remand pending investigation. The matter was heard in presence of the learned advocate for the defence and subsequently, the prayer for extension was allowed.

It is contended that on the day on which the prayer was allowed, the accused was not present. Hence, extension of period of detention is not in accordance with law. Reliance is placed on **Sanjay Dutt vs. State through CBI, Bombay (II)**¹ and **Jigar @ Jimmy Pravinchandra Adatiya vs. State of Gujarat**² respectively.

We are not in agreement with the learned advocate for the petitioner. A proper reading of the aforesaid ratios would show the presence of the accused at the time when the prayer for extension is considered is to ensure that the accused is aware of the application for extension at the time when it is considered by the court. Facts of the

¹ (1994) 5 SCC 410 [Paragraphs 46-49]

² 2022 SCC OnLine SC 1290

case clearly show that the lawyer for the accused was aware of such prayer and opposed it.

Under such circumstances, the present case is clearly distinguishable from the ratios relied upon on behalf of the defence.

We are satisfied that the extension of period of remand pending investigation in terms of Section 36A(4) of the NDPS Act was lawfully allowed.

Hence, we are not inclined to grant statutory bail to the petitioner.

The application for bail is thus **rejected**.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)