

30.08.2023
tkm/ct 28
sl no. 48

C.R.M. (DB) 106 of 2023
CRAN 1 of 2023

In Re : An application under section 439(2) of the Code of Criminal Procedure

And

In Re : Subhas Ghosh petitioner

Mr. Arun Naskar
Ms. S DasAdhikari

..... for the petitioner

Mr. B K Roy
Ms. Rita Datta

..... for the State

Mr. Monish Sen
Ms. Oisani Mukherjee

..... for OP no 2

1. Order is recalled. Application is restored to its file and number.
2. CRAN 1 of 2023 is allowed.
3. Opposite party no. 2 was in custody for 90 days. Accordingly the magistrate enlarged him on statutory bail.
4. It is contended he should have been enlarged on bail on the 91st day.
5. The aforesaid contention falls foul of the ratio of the Hon'ble Apex Court in *Enforcement Directorate, Government of India Vs. Kapil Wadhawan & Anr.*¹
6. Hence, we do not find any merit in the application and the same is dismissed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

¹ 2023 SCC Online SC 972