

15.07.2024
16
&
17
jb.
jdt

CRR 2139 of 2024
(CRAN 1 of 2024)
with
CRR 2787 of 2024

In Re : Mahendra Kumar Jain
... Petitioner.

Mr. Somopriyo Chowdhury
Mr. Arka Banerjee
... For the Petitioner

Mr. Y. J. Dastoor
Mr. Nilay Sengupta
Mr. Ankit Agarwala
Mr. Sujit Banerjee
Mr. Ananya Barik
... For the Opposite Parties

Heard learned counsels for the parties.

The petitioner/*de facto* complainant is aggrieved by the order passed by the learned Judge, Special Court under the NDPS Act, 12th Court, Alipore on 24th June, 2024 allowing interim stay of further proceeding in criminal case being CGR case no. 550 of 2021 pending before the learned Chief Judicial Magistrate, Alipore. Learned counsel for the petitioner submits that the petitioner sought expeditious disposal of the case pending before the learned Chief Judicial Magistrate since the proceeding of the case is being unnecessarily delayed by the accused/opposite parties who have been continuously submitting several petitions before the learned trial Court only with the intention of protracting the commitment of the case.

Charge-sheet was submitted on 11th August, 2022 and copies under Section 207 of the Code of Criminal Procedure supplied to the accused opposites parties on 19th January, 2023. Learned Magistrate has not been able to commit the case till date due to pendency of the various applications filed by the opposite parties before the Court. The petitioner sought right of audience to the petitions filed by the opposite parties before the learned trial Court which was allowed by the learned trial Court by an order passed on 6th January, 2024, against which the opposite parties approached the learned Judge, Special Court, under the NDPS Act, 12th Court, Alipore in Criminal Motion no. 29 of 2024 and by an order passed on 24th June, 2024 learned Court granted an order of interim stay of further proceedings of the criminal case pending before the learned trial Court. Learned counsel submits that the lower court record was directed to be sent back to the learned trial Court after the matter was heard by the revisional Court on 24th June, 2024.

Learned counsel for the private opposite parties submits that the lower court record was sent back by the learned revisional Court to the learned trial Court on a submission made by the petitioner that this Court had directed the learned revisional Court to send back the lower court record to the learned trial Court, which was not a fact.

Upon consideration of the submission made on behalf of the parties, this Court is of the view that the learned trial Court shall not be in a position to proceed with the case pending before him unless the revisional application is disposed of by

the learned revisional Court. The next date for hearing the criminal motion is tomorrow, that is, 16th July, 2024.

In view of the above, learned revisional Court being the learned Judge, Special Court under the NDPS Act, 12th Court, Alipore is directed to dispose of the revisional application being Criminal Motion no 29 of 2024 pending before him as expeditiously as possible preferably within one month from the date of next hearing fixed before him without granting any unnecessary adjournment to either of the parties, in accordance with law.

Learned revisional Court may call for the lower court record, if required.

C.R.R. 2787 of 2024 is thus disposed of.

Since no affidavit has been invited, allegations contained in the revisional application being CRR 2787 of 2024 shall be deemed not to have been admitted.

Affidavit-in-opposition submitted by the private opposite parties in CRR 2139 of 2024 is taken on record.

The revisional application shall be taken up for consideration upon disposal of the criminal revision being Criminal Motion no. 29 of 2024 by the learned revisional Court.

In the meantime the petitioner is directed to serve copy of the application along with annexure thereto upon the State and file affidavit of service on the adjourned date.

(Suvra Ghosh, J.)