



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 40 OF 2023

Shaikh Irfan Shaikh Salim & Ors.

...Appellants

Versus

The State of Maharashtra

...Respondent

.....

Mr. Adil Z. Biyabani – Advocate for the Appellants

Mrs. V. S. Chaudhari – APP for respondent/State

.....

**CORAM : R. G. AVACHAT
AND
NEERAJ P. DHOTE, JJ.**

DATED : 27TH FEBRUARY, 2024

PER COURT : -

1. This Appeal is filed under Section 21 of the National Investigation Agency Act, 2008, challenging the Order dated 14.12.2022 passed by the learned Additional Sessions Judge, Aurangabad, in Criminal M. A. No. 366 of 2022 extending the period of investigation by 60 days from 20.12.2022.

2. The main ground of challenge in the Appeal is that the learned trial Court ought not to have extended the said period by 60 days in one go and ought to have extended the said period by shorter days. This contention is opposed by the State by submitting that there is

no such embargo under the Unlawful Activities (Prevention) Amendment Act, 2008 [in short “UAPA Act”].

3. We have perused the impugned order, which runs into seven pages.

4. Perusal of the impugned order shows that the learned trial Court has considered the Case Diary, Progress Report submitted by the Public Prosecutor and after hearing the Appellants, passed the impugned order. We have also read Section 43D(2)(b) of the UAPA Act, which reads thus : -

S. 43D(2)(b) : - after the proviso, the following provisions shall be inserted, namely: -

“Provided further that if it is not possible to complete the investigation within the said period of ninety days, the Court may if it is satisfied with the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of ninety days, extend the said period up to one hundred and eighty days:

Provided also that if the police officer making the investigation under this act, requests, for the purposes of investigation, for police custody from judicial custody of any person in judicial custody, he shall file an affidavit stating the reasons for doing so and shall also explain the delay, if any, for requesting such police custody.”

5. It is clear from the said provision that the concerned Court has ample powers to extend the period for investigation. The reliance placed by the learned advocate for the Appellant on the parliamentary debates is misplaced, for the reason that the Bill after discussion in the

house culminates into the Act, which has to be looked into. There is no embargo in the said Act on the powers of the concerned Court in exercising its jurisdiction for extending the period for investigation. Relevant portion of paragraph 13 of the impugned order is reproduced as follows :

13. *Thus, after considering the case diary, progress report of the Public Prosecutor, details given in the confidential reports dated 08/12/2022 and 11/12/2022 and the grounds mentioned in the application, I am satisfied that no unnecessary time has been killed to prolonged the investigation. Considering the seriousness, sensitivity and gravity of the offence, it is necessary to extend the period for conducting further investigation and to submit the final report.*

6. In view of the above, we do not see any merit in the Appeal and hence, the Appeal is liable to be dismissed. Appeal is **dismissed**.

[NEERAJ P. DHOTE]
JUDGE

[R. G. AVACHAT]
JUDGE

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