

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 38 OF 2024

Zulfiqar Ali Barodawala S/o .. Appellants
Ali Barodawala And Ors.

Versus

National Investigation Agency And .. Respondents
Anr.

WITH

CRIMINAL APPEAL NO. 1374 OF 2023

Kadir Dastagir Pathan @ Abdul Kadir .. Appellants
Dastagir Pathan And Anr.

Versus

National Investigation Agency And .. Respondents
Anr.

...

Mr. Mubin Solkar a/w Ms. Tahera Qureshi, Mr. Tahir Hussain,
Adv. Anas Shaikh, Adv. Hemal Shah, for the Appellant/s.

Mr. Sandesh Patil a/w Mr. Chintan Shah, for the Respondent-
NIA.

Ms. A. S. Takalkar, A.P.P. for the State/Respondent.

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CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.

DATED : 13th JUNE, 2024

P.C:-

1. We have heard Mr. Solkar learned counsel for the Appellants in the two Appeals which raised a challenge to the

impugned order passed by the Special Judge, granting the Application for extension of time for completion of investigation and filing of charge-sheet by a period of 90 days.

The learned counsel has argued various facets of his challenge, the foremost being that there is no extension of the detention of the accused persons and prima-facie we are unable to persuade ourselves to his submission by specifically reading Section 43D of the Unlawful Activities (Prevention) Act, 1967, and the proviso which is providing the extension of the period to complete the investigation and prima-facie we are of the view that these necessarily do not have to indicate the period of extension of custody, as it is only when the investigation is not completed in the period stipulated under Section 167(2) first proviso, the accused is entitled to avail bail and when such period of investigation is further extended by 90 days up to 180 days, the proviso in the modified form in the Act of 1987, is a provision permitting extension of time to complete the investigation within the prescribed period.

2. Another point which learned counsel would press into service is the non compliance of the said provision as according to him, the application which is presented before the Court for extension, is simply signed by the prosecutor and it do not reflect its application of mind.

3. Mr. Patil, representing the NIA, however inviting our attention to the Roznama of the Court where there is a reference to a sealed envelope which is presented by the Senior Public Prosecutor and it is a submission of Mr. Patil that

it is this report which was perused and from the basis of the impugned order.

Though the learned counsel for the Appellants attempt to argue that there is no application of the mind by the Public Prosecutor, this can be inferred only when we get an opportunity to look for the said report.

Mr. Patil, learned counsel for the NIA undertake to present the said report in a sealed envelop before us on 14.06.2024.

List on 14.06.2024.

(MANJUSHA DESHPANDE,J.)

(BHARATI DANGRE, J.)

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signed by
CHAITYANYA
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JADHAV
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