

25.06.2026

Item no. 17

Ct. No.237

Suman

C.R.R.2443 of 2026

Arijit Das Thakur @ Rana

Vs.

The State of West Bengal and Anr.

Mr. Anirban Dutta
Mr. Younus Sultan
Mr. Iqbal Kabir
Mr. Abhishek Kabir
..for the petitioner

Mr. Kallol Mondal, Id. P.P.
Mr. Subir Ganguly
Mr. Sandeep Prasad Shaw
..for the State

Let the supplementary affidavit filed by the petitioner be taken on record.

By filing the present revisional application, the petitioner essentially challenges two orders dated June 12, 2026 and June 22, 2026 passed by the learned Additional Chief Judicial Magistrate, Alipore, in connection with Garfa Police Station Case No. 96 of 2026, corresponding to ACGR No. 3149 of 2026, registered under Sections 61(2), 115(2), 324(1), 351(3), and 308(5) of the Bharatiya Nyaya Sanhita, 2023.

By the order dated June 12, 2026, the learned Magistrate kept in abeyance the prosecution's prayer for police custody of the petitioner on the ground that the petitioner was already in police custody in connection with Garfa Police Station Case No. 87 of

2026, registered under Sections 386 and 34 of the Indian Penal Code, 1860.

Subsequently, by order dated June 22, 2026, the learned Magistrate considered the prayer for police custody and, by a reasoned order, allowed the same, granting police custody of the petitioner until June 28, 2026.

The propriety and legality of the aforesaid two orders cannot be examined without first noticing the relevant antecedent facts.

It appears that Garfa Police Station Case No. 86 of 2026, dated June 1, 2026, was registered against the petitioner under Sections 386, 506, 341, 120B, and 34 of the Indian Penal Code, 1860. In connection with the said case, the petitioner was apprehended on June 2, 2026 and produced before the learned Magistrate on June 3, 2026. The learned Magistrate granted police custody of the petitioner until June 12, 2026. It further appears that another case, being Garfa Police Station Case No. 87 of 2026 dated June 2, 2026, was also registered against the petitioner under Sections 386 and 34 of the Indian Penal Code, 1860.

The petitioner was shown arrested in connection with the said case on June 3, 2026 at 00:25 hours and was produced before the learned Magistrate on the same date with the following prayer:

“Hence, it is being prayed before Your Honour that, under these circumstances, necessary order may kindly be accorded to remand the m/named accused person in Police Custody till 12.06.2026 for the purpose of investigation into the case and to apprehend his associates who are still at large, and also to verify the other complaints against him that are still pending.

Also, Bail Prayer, if any at this early stage of investigation, is strongly opposed at this point as the accused person may jeopardize the fate of the case by exercising his political power and influence.”

The learned Magistrate, however, kept the prayer for police custody in abeyance, observing that the petitioner was already in police custody in connection with Garfa Police Station Case No. 86 of 2026.

On June 12, 2026, when the petitioner was produced upon completion of the period of police custody in Garfa Police Station Case No. 86 of 2026, the learned Magistrate remanded him to judicial custody until June 25, 2026. On the same day, in connection with Garfa Police Station Case No. 87 of 2026, the learned Magistrate allowed the prosecution's prayer for police custody until June 22, 2026 by a reasoned order justifying such custody.

It further appears that a third case was registered against the petitioner as Garfa Police Station Case No. 96 of 2026 under Sections 61(2), 115(2), 324(1), 351(3), and 308(5) of the Bharatiya Nyaya Sanhita, 2023. In connection with the said case, the petitioner was shown arrested from the premises of Garfa Police Station on June 11, 2026 at about 21:15 hours. The petitioner was produced before the learned Magistrate on June 12, 2026. Once again, the Investigating Agency prayed for an order remanding the petitioner to police custody until July 7, 2026.

The learned Magistrate, however, kept the prayer for police custody in abeyance in view of the fact that police custody had

already been granted in connection with Garfa Police Station Case No. 87 of 2026.

On June 22, 2026, the learned Magistrate took up all three cases. In Garfa Police Station Case No. 86 of 2026, the petitioner was remanded to judicial custody until July 3, 2026. In Garfa Police Station Case No. 87 of 2026, the petitioner was remanded from police custody to judicial custody until July 3, 2026. In Garfa Police Station Case No. 96 of 2026, the learned Magistrate allowed the prosecution's prayer for police custody until June 28, 2026 by passing a reasoned order.

Mr. Anirban Dutta, learned advocate appearing on behalf of the petitioner, assails the orders dated June 12, 2026 and June 22, 2026 passed in connection with Garfa Police Station Case No. 96 of 2026. He submits that when the petitioner was produced before the learned Magistrate on June 12, 2026, the learned Magistrate ought not to have kept the prayer for police custody in abeyance. According to him, the learned Magistrate was required to decide the application and pass an appropriate order. In the absence of any judicial order authorising detention in connection with the said case, the petitioner's detention from June 12, 2026 became unauthorised and illegal. Consequently, the subsequent order dated June 22, 2026 granting police custody is also vitiated in law, as an illegal detention cannot be retrospectively regularised through a subsequent order of remand.

Learned counsel appearing for the State opposes the submissions advanced on behalf of the petitioner. It is contended

that, since the petitioner was already in police custody in connection with Garfa Police Station Case No. 87 of 2026, the learned Magistrate rightly kept the application for police custody in abeyance. There was no occasion to pass a further order of police custody in respect of a person who was already in police custody. It is, therefore, submitted that no material irregularity has been committed by the learned Magistrate warranting interference by this Court in exercise of its revisional jurisdiction.

In my considered view, the learned Magistrate failed to discharge the statutory duty cast upon him under Section 167 of the Code of Criminal Procedure, 1973 and Section 187 of the Bharatiya Nagarik Suraksha Sanhita, 2023. When an accused person is produced before a Magistrate following arrest, the law mandates that the Magistrate must either release the accused on bail, authorise police custody, or remand the accused to judicial custody.

The learned Magistrate cannot leave the question of an accused person's liberty unresolved. Every day of detention must be supported by a valid and subsisting judicial order. If the Magistrate merely keeps the matter pending or in abeyance without passing any order regarding custody, the detention lacks statutory sanction.

Where different police stations or distinct investigating agencies are involved, an accused person cannot simultaneously be handed over to two separate investigating teams. In such circumstances, to preserve the legality of detention in the

subsequent case, the Magistrate may record that the accused shall remain in deemed judicial custody in the second case until actual physical custody is transferred.

In the present case, however, both cases originated from the same police station. Therefore, there was no legal impediment preventing the learned Magistrate from authorising police custody in both cases simultaneously. In such a situation, the accused remains in the same lock-up, under the control of the same Officer-in-Charge, and the investigating agency can effectively interrogate the accused in relation to both cases.

Running the periods of police custody concurrently prevents the investigating agency from exhausting the initial statutory period of police custody sequentially under Section 167 of the Code of Criminal Procedure, 1973 or Section 187 of the Bharatiya Nagarik Suraksha Sanhita, 2023. At the same time, it protects the accused from being subjected to prolonged and successive periods of police interrogation. Any grant of police custody must, however, remain within the statutory framework governing such custody. Under Section 187 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the permissible period of police custody may be split and availed of at different stages within the prescribed statutory period, thereby conferring greater flexibility upon the Magistrate while remaining within the limits prescribed by law.

In the present case, the detention of the petitioner from June 12, 2026 to June 22, 2026 in connection with Garfa Police Station Case No. 96 of 2026 was not supported by any written judicial

order authorising such detention. The said detention was, therefore, wholly unauthorised and illegal. A subsequent remand order dated June 22, 2026 granting police custody until June 28, 2026 could not validate or cure the earlier period of unlawful detention. An illegal detention cannot be retrospectively regularised. A Magistrate cannot authorise further police custody in a case where the detention of the accused in that very case has, in the meantime, become unlawful. The subsequent order seeks to continue a chain of custody that had already been broken by the absence of a valid judicial order and is, therefore, non est in the eye of law.

Accordingly, the orders dated June 12, 2026 and June 22, 2026 passed by the learned Magistrate in connection with Garfa Police Station Case No. 96 of 2026 are set aside.

It is, however, clarified that the finding of illegal detention does not confer any blanket immunity upon the petitioner in connection with the present case. This order shall not preclude the Investigating Agency from taking steps against the petitioner in accordance with law.

Accordingly, **C.R.R. No. 2443 of 2026** stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)