

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 01ST DAY OF APRIL, 2022

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.5913 OF 2022 (GM-RES)

BETWEEN:

ZUHAB HAMEED SHAKEEL MANNA @ ZOHIB MANNA
~ ~ ~ ~ ~

... PETITIONER

(BY SRI USMAN P., ADVOCATE (PHYSICAL HEARING))

AND:

THE NATIONAL INVESTIGATION AGENCY
DOMLUR, BENGALURU – 560 071
REPRESENTED BY
SPECIAL PUBLIC PROSECUTOR
NIA, BENGALURU.

... RESPONDENT

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND
227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF

THE CODE OF CRIMINAL PROCEDURE, PRAYING TO QUASH THE ORDER DTD 14.02.2022 PASSED IN SPL.C.C.NO.595/2021 ON THE FILE OF THE LEARNED XLIX ADDL. CITY CIVIL AND SESSIONS JUDGE AT BANGALORE (CCH-50), IMPUGNED IN THE WRIT PETITION VIDE ANNEX-F HERETO, AS ILLEGAL AND VIOLATIVE OF THE FUNDAMENTAL RIGHT GUARANTEED BY THE CONSTITUTION AND ETC.,

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 29.03.2022, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The petitioner, in this writ petition, calls in question an order dated 14-02-2022 passed by the XLIX Additional City Civil and Sessions Judge (Special Court for Trial of NIA Cases), Bangalore, in Spl.C.C.No.595 of 2021 whereby the Special Court extended the custody of the petitioner and consequently, seeks a direction by issuance of a writ in the nature of mandamus for grant of bail with immediate effect.

2. Brief facts leading to the filing of the present petition, as borne out from the pleadings, are as follows:-

The petitioner is accused No.2 in Spl.C.C.No.595 of 2021 registered for offences punishable under Sections 120B and 125 of the Indian Penal Code and Sections 17, 18 and 18B of the

Unlawful Activities (Prevention) Act, 1967 ('the Act' for short). The petitioner claims to be working in Saudi Arabia and staying there along with his family earning his livelihood. The petitioner was taken into custody in Saudi Arabia on 05-10-2020 about 13 months prior to his deportation to India, on the request of National Investigating Agency. The family of the petitioner is completely evacuated from Saudi Arabia and then deported to India on 14-11-2021. The moment he landed on the shores of India, he was taken into custody at Kochi and then brought to Bangalore. On his arrival, a case was registered in Crime No. RC-33/2020/NIA/DLI on 19-09-2020 for the aforesaid offences. The allegation against the petitioner was that he had affiliation with banned terrorist organizations and had entered into criminal conspiracy to radicalize and motivate gullible Muslim youths to join Islamic State in Iraq and Syria ('ISIS').

3. The further allegation against the petitioner was that he travelled to raise funds and facilitated travel of ISIS to the conflict zone – Syria. The petitioner was produced before the

Court on 18-11-2021 and was remanded to judicial custody for 30 days and the same stood extended from time to time. The petitioner, even as on date, is in judicial custody. After 90 days of the petitioner being in judicial custody, a report is submitted by the Investigating Officer to the Special Public Prosecutor ('SPP' for short) for extension of the custody of the petitioner from 90 days to 180 days. On filing of the report, the petitioner filed his objections for extension on the ground that there was no warrant to extend judicial custody of the petitioner as no charge sheet is filed within 90 days as is required in law and also filed an application seeking his release on grant of bail under sub-section (2) of Section 167 of the Cr.P.C. The Special Court by its order dated 14-02-2022 extended judicial custody of the petitioner from 90 days to 180 days and consequently, rejected the application filed by the petitioner for grant of default bail as obtaining under Section 167(2) of the Cr.P.C. It is these two orders – one of extension of judicial custody and the other, rejection of the application of the petitioner under Section 167(2)

of the Cr.P.C. that have driven him to this Court in the subject writ petition.

4. Sri P.Usman, learned counsel appearing for petitioner would vehemently argue and contend that the order of extension of judicial custody bears no application of mind as is required under Section 43 of the Act, as the custody is extended mechanically without the SPP applying his mind on the report given by the Investigating Officer. He would submit that on account of non-application of mind, the very order of extension is vitiated and the petitioner is entitled to be considered for a default bail under Section 167(2) of the Cr.P.C. He would place reliance upon two judgments of the Apex Court in the cases of:

- (i) **HITENDRA VISHNU THAKUR AND OTHERS v. STATE OF MAHARASHTRA AND OTHERS** reported in **(1994) 4 SCC 602** and
- (ii) **BIKRAMJIT SINGH v. STATE OF PUNJAB** reported in **(2020) 10 SCC 616**.

5. I have given my anxious consideration to the submissions made by the learned counsel appearing for the petitioner and have perused the material available on record.

6. The afore-narrated facts are not in dispute and are, therefore, unnecessary to be reiterated. The petitioner was apprehended and produced before the Court on 18-11-2021. By the time the period of 90 days was coming to an end, a report is filed by the Investigating Officer before the SPP as to why further judicial custody of the petitioner was necessary. The contents of the report are as follows:

**“REPORT FILED BY SPECIAL PROSECUTOR
SEEKING PERMISSION FOR EXTENSION OF THE
INVESTIGATION PERIOD AND DETENTION PERIOD OF
ACCUSED ZOHAI MANN (A-2) BEYOND 90 DAYS UPTO
180 DAYS UNDER THE PROVISION OF SECTION 43D (2)
(b) OF UA(P) ACT FOR COMPLETION OF INVESTIGATION
OF THE INSTANT CASE.**

It is humbly submitted on behalf of the complainant as follows:

The Chief Investigating Officer of this case has submitted a report before me along with the relevant documents to consider for filing the petition before this Hon'ble Court to extend the judicial remand of Zohaib Mann (A-2) from 90 days to 180 days.

After perusing the records and after applying my mind to the facts and the circumstances of this case I have come to the following conclusion.

MAY IT PLEASE YOUR HONOUR:

1. Ministry of Home affairs, CTCR Division, North Block, New Delhi order No.11011/61/2020/NIA dated 18/09/2020 and in exercise of the powers under sub-section (5) of section 6 read with section 8 of the National Investigation Agency Act 2008, directed the National Investigation Agency to register and Investigate the aforesaid case under section 120B, 125 of IPC & 17, 18 & 18B of UA (P) Act regard to the gravity of the offences. Accordingly, NIA has registered the case RC-33/2020/NIA/DLI dated 19.09.2020 U/S 120B & 125 of Indian Penal Code and 17, 18 & 18B of Unlawful Activities Prevention Act 1967 against Muhammad Tauqir Mahmood (A-1), Zuhaib Hameed Shakeel Manna @ Zuhaib Manna @ Zuhaib Manna, Irfan Nasir @ Irfi & Mohamed Shihab for having affiliation with the banned terrorist organizations ISIS/ISIL/Daesh, raising funds and sending gullible Muslim youth illegally to Syria to join ISIS.
2. On 07.10.2020, accused Irfan Nasir (A-3) and accused Ahamed Abdul Cader (A-5) were arrested and during custodial interrogation they have revealed many facts regarding FIR named accused persons and their associates. Charge sheet against two accused persons Irfan Nasir (A-3) & Ahamed Abdul Cader (A-5) has been filed before this Hon'ble court on 01.04.2021. Further investigation is continued and investigation pertaining to the other accused persons in the above case is pending.

It is further submitted that the Investigating Officer has done the Investigation in the following aspects till date:

3. On 23.10.2021, accused Muhammad Tauqir Mahmood (A-1) was arrested from IGI T-3 Airport, New Delhi being kingpin of the conspiracy and he in association with co-accused persons radicalized gullible Muslim, recruited them to ISIS and sent them to Syria via Turkey illegally to Join ISIS. He was raising and receiving funds to fund the visit of those radicalized youth to Syria. During custodial interrogation accused Muhammad Tauqir Mahmood (A-1)

revealed many facts regarding his role in the criminal conspiracy which was hatched by him in association with other co-accused persons including Zohaib Manna (A-2) and associates residing in India, Saudi Arabia & Pakistan.

- 4. Investigation conducted so far has revealed that accused Zohaib Manna (A-2) was also one of the kingpins of the conspiracy and he in association with co-accused persons radicalized gullible Muslim, recruited them to ISIS and sent them to Syria via Turkey illegally to Join ISIS. He was raising and receiving funds to fund the visit of those radicalized youth to Syria.*
- 5. On 17.11.2021, upon his arrival from Saudi Arabia, accused Zohaib Manna (A-2) was arrested from Bengaluru and Police custody remand of accused was granted by this hon'ble court for 12 days and further for 5 days until 03.12.2021.*
- 6. During custodial interrogation, accused Zohaib Manna (A-2) revealed many facts regarding his role in the instant criminal conspiracy which was hatched by him in association with other co-accused persons and associates residing in India and abroad. Several other names were also revealed by accused and the said details have to be verified and their role in the instant incident and conspiracy have to be ascertained.*
- 7. The Social Media data of accused Zohaib Manna (A-2) was downloaded and the same is under scrutiny. Some incriminating facts have also come on record which need to be verified and confronted from accused Zohaib Manna (A-2).*
- 8. Accused Zohaib Manna (A-2) was one of the key members of "Quran Circle" group which played a significant role in radicalizing gullible Muslim youth through discussions & deliberations and by showing them doctored videos related to atrocities on Muslims in Syria. Most of the Quran Circle members were highly radicalized and ready to go to Syria*

to join ISIS and during 2013-14. 6-7 of the Quran Circle group members including accused persons Muhanmad Tauqir Mahmood (A-1) & Mohammed Shihab (A-4) had crossed the Turkey border illegally and visited Syria, two of them got bullet injuries and two got killed during fighting for ISIS in Syria.

It is further submitted that the Investigating Officer has to continue the investigation in the following aspects:

9. Searches have been conducted on 08.02.2021 at the residential premises of associates of accused Zohaib Manna (A-2) and data of some of the devices has been received and scrutinized. Lots of incriminating videos, audios, documents have been found related to ISIS and role of the suspects to be fixed after their examination regarding the data found from respective digital device. The retrieved data of remaining devices, is received recently from forensic laboratory and under scrutiny and the details of the same are yet to be verified.
10. The financial details of both the arrested accused persons are being analysed so as to identify the source and channels of funding. Investigation pertaining to identification of their associates in India and abroad so as to unearth the larger conspiracy are still pending.
11. That, several aspects of Investigation work are yet to be carried out to verify the facts which have surfaced during the custodial interrogation of accused Zohaib Manna (A-2). The investigation of the case is scattered across the country in different states of Maharashtra, Kerala, Delhi and Karnataka as well as abroad which requires time and manpower.
12. That, from the averments put forth hereinabove, the dissemination and assimilation of the data / investigation proceeding for unearthing the larger conspiracy and other incriminating facts need more time. Also, the extracted

data received from the authorised forensic lab is due for scrutiny.

- 13. That, in order to unearth the larger conspiracy, the presence of accused persons in Judicial Custody is essential for the sake of investigation and in the interest of justice.*
- 14. It is further submitted that in order to investigate the case in the above-mentioned aspects, the concerned Investigating Officer has requested further time to investigate the case. Further, the provisions of section 45 of UA (P) Act 1967 mandate that no court shall take cognizance of any offence under Chapter-IV and VI of the Act without the previous sanction of the Central Government. The process of obtaining the sanction of prosecution from the Central Government consumes at least 15 days of the time period allowed for investigation.*
- 15. Under the facts and circumstances narrated above and in view of the reasons spelt out, it is just and necessary that the period of judicial custody of the accused Zohaib Manna (A-2) be further extended to a period up to 180 days, as otherwise, the investigation of the case would be hampered.*
- 16. It is further submitted that the investigating officer states that there is no wilful or wanton delay or lethargy in conducting the investigation by the complainant.*
- 17. It is further submitted that the judicial remand (90 days) of accused Zohaib Manna (A-2) is going to end on 14.02.2022 and it needs to be extended to complete investigation.*

PRAYER

*Hence it is humbly and the most respectfully prayed that this Hon'ble court may be pleased to appreciate the investigation done so far, and the reasons underlined for extending the custody of the accused **Zohaib Manna (A-2)***

for further investigation, so as to extend the Judicial Remand beyond the period of 90 days and up to 180 days as provided under section 43-D (2) (b) of the Unlawful Activities (Prevention) Act – 1967 in the interest of justice and for the just decision of the case.”

The Investigating Officer of the case submits his report to the SPP narrating the circumstances that warrant extension of judicial custody of the petitioner.

7. It is the case of the Investigating Officer that during the custodial interrogation larger conspiracy is brought out and the petitioner would be needed for further interrogation for unearthing such larger conspiracy. Based upon this, an application is filed seeking extension of judicial custody from 90 days to 180 days as obtaining under Section 43D(2)(b) of the Act. The petitioner filed his objection to the said application and also filed an application seeking grant of default bail under Section 167(2) of the Cr.P.C. The Court, hearing the application for extension of judicial custody, passed a detailed order allowing the application and extended the custody of the

petitioner from 90 days to 180 days. The reason given by the trial Court runs as follows:

14. *On the careful perusal of provisions of S.43-D (2)(b) of UAPA, it is very much clear that the court is empowered to extend the detention of accused for the period of 90 days, up-to 180 days. The Court is required to be satisfied with the report of the Public Prosecutor indicating the progress of the investigation and also required to mention the specific reasons for authorizing further detention.*
15. *The learned Special Public Prosecutor has mentioned specific aspects on which the investigation is required to be conducted. This Court, in view of law laid down by the Hon'ble Supreme Court in Hithendra Vishnu Thakur and other Vs. State of Maharashtra and others, reported in (1994) 4 Supreme Court of cases 602, particularly at para No.21, 23 and 30 of the judgment, issued notice to the accused No.2 who is lodged in central prison Bengaluru and so also heard the learned counsel apart from securing the presence of accused through video conference. It is seen that this accused No.2 was first produced before this Court on 18.11.2021 and period of 90 days would expire on 14.02.2022. The contention of learned counsel for accused No.2 that the accused was taken into custody on 15.11.2021 cannot be accepted because as per the order sheet the accused No.2 was produced before this Court only on 18.11.2021 and thus, the period of 90 days is computed from 18.11.2021 the same would expire only on 15.02.2022 and thus, the right of the accused to be released on bail under Section 167(2) of Cr.P.C., has not yet arise. Therefore, the application filed by the learned counsel for*

accused No.2 under Section 167(2) of Cr.P.C., is not maintainable and the same is liable to be rejected.

16. *Considering the nature of the case and facts and circumstances of the case, I am satisfied that the prosecution has made out grounds for granting extension of time for investigation from 90 days to 180 days. The report filed by the learned Special Public Prosecutor being in conformity with the provisions of law. The contentions of learned counsel for accused No.2 cannot be accepted. In view of the facts and circumstances of the case, the decisions relied upon by the learned counsel for the accused No.2 are not applicable to the facts of the case. Therefore, the application filed by the learned Special Public Prosecutor is liable to be allowed and judicial custody of accused No.2 is liable to be extended from 90 days to 180 days from today as required u/s 43D(1)(b) of UAPA. Hence, I have answered point No.1 in the affirmative and point No.2 in the negative.*
17. **Point No.3:-** *In view of my findings on the above said point, the bail application is liable to be dismissed. Hence, I proceed to pass the following:-*

ORDER

The application/report filed by the learned Special Public Prosecutor under Section 43-D(2)(b) of Unlawful Activities (Prevention) Act, 1967 is hereby allowed. The period of detention of accused in judicial custody is extended from 90 days up-to 180 days from the date of this order.

The application filed by the learned counsel for accused No.2- Zuhab Hameed Shakeel Manna @Zohib

Manna @ Zuhaib Manna under Section 167(2) of Cr.P.C., is hereby rejected.”

Consequently, the application filed by the petitioner for grant of default bail came to be rejected by a separate order dated 24.02.2022 again giving detailed reasons. It is these two orders that are impugned in this writ petition.

8. The contention of the learned counsel for the petitioner that the orders suffer from want of application of mind is unacceptable. The order extracted (*supra*) contains detailed reasons assigned by the SPP while filing an application extracting the contents of the report of the Investigating Officer. Therefore, it is not a case where the report or the opinion of the Investigating Officer or the SPP suffers from want of application of mind.

9. Section 43D(2) of the Act reads as follows:

“43-D. Modified application of certain provisions of the Code.—(1) ...

....

(2) Section 167 of the Code shall apply in relation to a case involving an offence punishable under this Act subject to the modification that in sub-section (2),—

- (a) the references to “fifteen days”, “ninety days” and “sixty days”, wherever they occur, shall be construed as references to “thirty days”, “ninety days” and “ninety days” respectively; and
- (b) after the proviso, the following provisos 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.”

The learned counsel relies on the provision which states that if it not possible to complete the investigation within 90 days, the Court may, if it is satisfied that the report of the Public Prosecutor indicating the progress of investigation and the specific reasons for the detention of the accused beyond the said period of ninety days, extend the judicial custody from 90 days to 180 days.

10. The emphasis of the submission of the learned counsel is on the phrase “if it is not possible to complete”. The learned counsel submits that the said phrase has to be interpreted to demonstrate as to why the investigating officer could not complete the investigation within 90 days. This submission is to be noted only to be rejected, as the report and the application of the SPP clearly cull out and narrate as to the progress of investigation and the necessity of continuance of judicial custody of the petitioner for further interrogation. I do not find any error or reason rendered by the Investigating Officer as put forth by the SPP to be contrary to Section 43D(2) of the Act.

11. Reference being made to Three Judge Bench judgment of the Apex Court in the case of **STATE OF MAHARASHTRA v. SURENDRA PUNDLIK GADLING**¹ in the circumstances is apposite. The Apex Court was considering the purport of the very provision the learned counsel places reliance upon. The Apex Court in the said judgment holds as follows:

¹ (2019) 5 SCC 178

“Whether the necessary ingredients of the proviso to Section 43-D(2)(b) of the said Act were set out in the application submitted

14. A perusal of the proviso to Section 43-D(2)(b) of the said Act shows that there are certain requirements that need to be fulfilled, for its proper application. These are as under:

14.1. It has not been possible to complete the investigation within the period of 90 days.

14.2. A report to be submitted by the Public Prosecutor.

14.3. Said report indicating the progress of investigation and the specific reasons for detention of the accused beyond the period of 90 days.

14.4. Satisfaction of the Court in respect of the report of the Public Prosecutor.

... ..

32. There is no doubt that the report/application of the Public Prosecutor, setting out the reasons for extension of ninety (90) days of custody to complete investigation leaves something to be desired. The first document placed before the trial court was an application/report filed by the IO, though that is also stated to contain the signature of the Public Prosecutor. The second document, which purports to be the report of the Public Prosecutor, has also been filed in the form of an application. There is repetition of averments that the IO is approaching the court. Para 10 of the second document again mentions that the investigating authority had approached the court for an extension of a further period of ninety (90) days on the grounds set out therein and the trial court also appears to have treated the document in question as an application filed by the IO. A clarity in the form of a proper endorsement by the Public Prosecutor that he had perused the grounds in the earlier

document submitted by the IO and, thus, was satisfied that a case had been made out for extension of time to complete the investigation would have obviated such a controversy. But that is not to be.

33. We may, however, notice that insofar as the existence of reasons for such extension is concerned, we have found that the same exist in the detailed grounds extracted aforesaid. **The first document, purporting to be the application of the IO, contains the reasons for such extended period of investigation but the second document details out the grounds in extenso and cannot be said to be only a mere reproduction of what is stated in the first document. It cannot, thus, be said that there has been complete absence of application of mind by the Public Prosecutor.**

34. There is merit in the contention of the learned Senior Counsel for the appellant State that the question is more of substance than form, an aspect even emphasised in *Hitendra Vishnu Thakur case* [*Hitendra Vishnu Thakur v. State of Maharashtra*, (1994) 4 SCC 602 : 1994 SCC (Cri) 1087], which has been relied upon by the learned counsel for both the parties. The second document in the form of an application has been filed on the same day. It is not as if the first document, which is an application of the IO was withdrawn to file the second document, which purports to be the report of the Public Prosecutor. It is on the analysis of the first document that the second document has been filed, albeit both containing the endorsement of the Public Prosecutor. There are averments in the second application referring to the progress of the investigation and the rejoinder before us elucidates that the Public Prosecutor had the benefit of scrutinising these papers. There are additional and expanded grounds set out in the second document.

35. Mr Mukul Rohatgi, learned Senior Counsel appearing for the appellant State has rightly contended that there is a material difference in the facts of the present

case and those of *Hitendra Vishnu Thakur case* [*Hitendra Vishnu Thakur v. State of Maharashtra*, (1994) 4 SCC 602 : 1994 SCC (Cri) 1087] , inasmuch as the application in that case was in the form of an affidavit of the IO, whose signatures were identified by an endorsement of the Public Prosecutor. It is in those circumstances it was held that mere identification by the Public Prosecutor, of the deponent of the affidavit could not justify the application to be treated as a report of the Public Prosecutor. In the present case, the second document contains a clear endorsement of the Public Prosecutor in support of the averments made therein.

36. No doubt, in para 23 of *Hitendra Vishnu Thakur case* [*Hitendra Vishnu Thakur v. State of Maharashtra*, (1994) 4 SCC 602 : 1994 SCC (Cri) 1087] , this Court laid emphasis on the importance of the scrutiny by a Public Prosecutor so as to not leave the detenu in the hands of the IO alone, being the police authority. The Public Prosecutor, thus, has the option to agree or disagree with the reasons given by the IO for seeking extension of time but in the facts of the present case, the second document in the form of an application shows scrutiny of the first document and thereafter details grounds and expanded reasons for the requirement of further time to complete the investigation.

37. Undoubtedly the request of an IO for extension of time is not a substitute for the report of the Public Prosecutor but since we find that there has been, as per the comparison of the two documents, an application of mind by the Public Prosecutor as well as an endorsement by him, the infirmities in the form should not entitle the respondents to the benefit of a default bail when in substance there has been an application of mind. The detailed grounds certainly fall within the category of “compelling reasons” as enunciated in *Sanjay Kumar Kedia case* [*Sanjay Kumar Kedia v. Narcotics Control Bureau*, (2009) 17 SCC 631 : (2011) 1 SCC (Cri) 1099] .”

(Emphasis supplied)

This judgment is reiterated by the Apex Court in the case of **STATE v. SHAKUL HAMEED**² wherein the Apex Court holds as follows:

“14. The necessary ingredients of the proviso to Section 43-D(2)(b) of the UAP Act, 1967 have to be fulfilled for its proper application. These are as under:

15. The scope of Section 43-D(2)(b) of the UAP Act, 1967 has been recently examined by a three-Judge Bench of this Court in State of Maharashtra v. Surendra Pundlik Gadling [State of Maharashtra v. Surendra Pundlik Gadling, (2019) 5 SCC 178 : (2019) 2 SCC (Cri) 472] and has not detained us any further.

16. Taking note of the specific reasons which have been assigned by the Special Public Prosecutor in his report of which reference has been made (supra), we are satisfied that the specific reasons assigned by the Public Prosecutor fulfil the mandate and requirement of Section 43-D(2)(b) of the UAP Act, 1967 and that was considered by the learned Judge of the Special Court in detail, who after recording its satisfaction, granted detention of the accused for a further period of 90 days under its order dated 12.12.2017.

(Emphasis supplied)

In the light of the afore-quoted statute, the judgments of the Apex Court interpreting Section 43D(2)(b) of the Act, the report

² (2019) 6 SCC 350

of the Investigating Officer, the application of the SPP and the order of extension of judicial custody, what would unmistakably emerge is that, the report of the Investigating Officer is in consonance with the provisions of the Act, so is the application filed by the SPP.

12. Reliance is placed by the learned counsel to the judgment of the Apex Court in **HITENDRA VISHNU THAKUR** (*supra*) to contend that identical provision under the Terrorist and Disruptive Activities (Prevention) Act, 1987 has been interpreted to mean that extension of judicial custody takes away the fundamental right of the accused and should bear application of mind. There can be no quarrel about the proposition of law as is enunciated by the Apex Court in **HITENDRA VISHNU THAKUR**'s case. But, it would become inapplicable to the facts of the case at hand, as the Apex Court in the judgment of **SURENDRA PUNDLIK GADLING** (*supra*) which is of larger Bench considers **HITENDRA VISHNU THAKUR**'s case referring to the very paragraphs that the learned

counsel has placed reliance upon and holds in favour of the prosecution on the score that the Investigating Officer has indicated the reasons as to why further judicial custody of the accused therein was needed. The same reasoning would apply on all fours in favour of the prosecution in the case at hand and against the contention advanced by the learned counsel for the petitioner. The other judgment in the case of **BIKRAMJIT SINGH** (*supra*) would not be applicable to the case at hand as it was an elucidation of importance of Section 167(2) of the Cr.P.C.

13. In the result, finding no merit, the petition stands rejected.

**Sd/-
JUDGE**

bkp
CT:MJ