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IN THE COURT OF SH. NAVEEN KUMAR KASHYAP
ADDITIONAL SESSIONS JUDGE-04: CENTRAL:
TIS HAZARI COURTS: DELHI

BAIL APPLICATON NO.:2216/2020

State v. Amit @ Akash S/o Late Hari Kishan
FIR No. : 193/2019
P. S. : Prasad Nagar
U/s: 302,323,506,34 IPC &
25,27 Arms Act

21.12.2020.

This court is also discharging Bail Roster Duty.

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Sh. Mohit Chaddha and Sh. Tanjim Husain, Ld. Counsels
for applicant/accused through VC.
Ld. Counsel for complainant through VC.

Vide this order, regular bail application u/s 439 Cr.PC dated 19.12.2020 filed by applicant through counsel is disposed of.

I have heard both the sides.

The personal liberty is a priceless treasure for a human being. It is founded on the bed rock of constitutional right and accentuated further on human rights principle. The sanctity of liberty is the fulcrum of any civilized society. Deprivation of liberty of a person has enormous impact on his mind as well as body. Further article 21 Of the Constitution mandates that no person shall be deprived of his life or personal liberty except according to procedure established by law. Further India is a signatory to the International Covenant On Civil And Political Rights, 1966 and, therefore, Article 21 of the Constitution has to be understood in the light of the International Covenant On Civil And Political Rights,

1966. *Further* Presumption of innocence is a human right. Article 21 in view of its expansive meaning not only protects life and liberty, but also envisages a fair procedure. Liberty of a person should not ordinarily be interfered with unless there exist cogent grounds therefor. The fundamental principle of our system of justice is that a person should not be deprived of his liberty except for a distinct breach of law. If there is no substantial risk of the accused fleeing the course of justice, there is no reason why he should be imprisoned during the period of his trial. The basic rule is to release him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after convictions, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earlier times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial ,but in such case 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the constitution that any persons should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty under Article 21 of the Constitution upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and

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it would be improper for any court to refuse bail as mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439 CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

But, the liberty of an individual is not absolute. The Society by its collective wisdom through process of law can withdraw the liberty that it has sanctioned to an individual when an individual becomes a danger to the societal order. A society expects responsibility and accountability from the member, and it desires that the citizens should obey the law, respecting it as a cherished social norm. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly thing which the society disapproves, the legal consequences are bound to follow.

Further discretionary jurisdiction of courts u/s 437 and 439 CrPC should be exercised carefully and cautiously by balancing the rights of the accused and interests of the society. Court must indicate brief reasons for granting or refusing bail. Bail order passed by the court must be reasoned one but detailed reasons touching merits of the case, detailed examination of evidence and elaborate documentation of merits of case should not be done.

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also

ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745**).

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for grant or refusal of bail to an accused in a non-bailable offence like, (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) Nature of accusation and evidence therefor, (iii) Gravity of the offence and punishment which the conviction will entail, (iv) Reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, (v) Character and behavior of the accused, (vi) Means, position and standing of the accused in the Society, (vii) Likelihood of the offence being repeated, (viii) Reasonable apprehension of the witnesses being tampered with, (ix) Danger, of course, of justice being thwarted by grant of bail, (x) Balance between the rights of the accused and the larger interest of the Society/State, (xi) Any other factor relevant and peculiar to the accused. (xii) While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. Furthermore, in the landmark judgment of **Gurucharan Singh and others v. State** (AIR 1978 SC 179), it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of

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which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

Further it may also be noted that it is also settled law that while disposing of bail applications u/s 437/439 Cr.P.C., courts should assign reasons while allowing or refusing an application for bail. But detailed reasons touching the merit of the matter should not be given which may prejudice the accused. What is necessary is that the order should not suffer from non-application of mind. At this stage a detailed examination of evidence and elaborate documentation of the merit of the case is not required to be undertaken. Though the court can make some reference to materials but it cannot make a detailed and in-depth analysis of the materials and record findings on their acceptability or otherwise which is essentially a matter of trial. Court is not required to undertake meticulous examination of evidence while granting or refusing bail u/s 439 of the CrPC.

In the present case, it is argued on behalf of the accused that present accused is implicated falsely in the present case at the instance of certain persons having adverse interest against the present accused. That he was arrested on 28.08.2019. That interim bail was granted to the present accused, and same is being extended at present by the order of Hon'ble High Court/Supreme Court. Investigation qua him is already complete and chargesheet is already filed. That in the intervening night of August, 2019, such applicant was at home and such complainant came to discuss about issue money lending between them. The complainant side started shouting that their father is in Delhi Police and complainant was full of anger and they started threatening the accused side. That there was scuffle between another brother of present accused, namely Deepak and complainant. But complainant was under influence of liquor. Suddenly, brother of complainant namely Vinay(deceased) came running having gun in his hand and pointed the gun towards the co-accused and fired a shot with intention to kill the co-accused Dushyant. Such, bullet

hit the head of such co-accused causing injury and blood started oozing out of his head. Immediately thereafter deceased Vinay targeted co-accused Deepak and fired at him and the bullet hit side tearing his left ear. That after sustaining injury Deepak tried to catch hold of deceased Vinay in order to save himself and both of them fell down and there was a gun shot heard by the people standing there and both of them were in pool of blood and all injured were removed in a battery rickshaw in B.L. Kapoor hospital. It is further argued that two of the accused went to the hospital in the same e-rickshaw in which such deceased Vinay and complainant Himanshu were present. That CCTV footage indicates that it is the complainant side who was aggressor. In fact it is the complainant side who came to the house of accused side and not vice-versa. That even the co-accused Dushyant is already granted regular bail. Further, it is argued that it is the accused side who called PCR on 100 number at the time of incident in question and thereafter two of the accused were hospitalized as such they could give formal complaint to the police after few days. In fact, the police official assured that a FIR would be registered at the instance of accused and later on due to influence of father of complaint side who served in Delhi Police, police refused to register FIR. In any case, now FIR under section 307 IPC is directed to be registered by the learned MM under section 156(3) Cr.P.C. against the complainant of the present FIR. It is further argued that chargesheet is already filed. It is further argued that accused is on interim bail at present and there is no violation of any of the interim bail condition. There is no question of any threat or tampering with evidence. That there is no other criminal case against the present accused. Further, falsely it is stated that role of the present accused is shown as instigator, and that after the co-accused allegedly fired at the deceased, the present accused took away the pistol in question and same was shown to be recovered from him later on. It is further argued that it is highly improbable that if such crime is committed by the accused side, then still such accused will keep such pistol with him even hours after committing the alleged offence so that police can come and recover the same from him. As such, it is argued that it is clear that

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such pistol is planted upon the accused. It is further stated that if present accused committed the offence in question, then why they will accompany the victim and the complainant to the hospital in the same e-rickshaw instead of running away from there. Further, in a case of cross FIR ,like in present case, parameters are different. It is further stated that accused has deep roots in the society. It is further argued that he is a family man. As such, it is prayed that he be granted regular bail.

On the other hand, it is argued by learned counsel for complainant that at present accused is on interim bail. Therefore, technically present application for regular bail is not maintainable unless he first surrender back. It is further stated that accused side is wrongly claiming that there is a criminal record of the present complainant and his family member ,without placing on record any of such detail. It is further argued that by mere reading of MLC of the deceased particularly the entry wound, it is clear that it is the accused side who has committed such offence. It is further argued that it is the present accused who induced the victim to come to their place. It is further argued that there are mobile footage which indicates clearly that present accused alongwith his brother had intention to kill the accused and even commenting in this regard. It is further claimed that as per the MLC of accused side there is self inflicted injury as opined by the doctor. It is further stated that there is a delay in giving complaint by the accused side to the police. It is further stated that the complainant side is taking appropriate legal step for quashing the FIR which is directed to be registered against complainant side u/s 307 IPC by the learned MM u/s 156(3) Cr.P.C. It is further stated that no ground is made out to grant the bail ,including having regard to the nature of offence and the role of the present accused. As such present bail application is strongly opposed.

Further, in reply filed by IO and as also argued by LD. Addl. PP for the state it is stated that offence is of serious nature and there are sufficient incriminating evidence against the accused. The allegations and contentions raised by complainant side are denied. But it is admitted that it is a matter of record that a FIR no. 193/2020 is directed to be registered

against the present complainant side u/s 307 IPC by Ld. MM and same is already registered and pending investigation. It is further argued that in a pre-planned manner, present accused side called the complainant and his brother to their house and killed the brother of the complainant by gun shot. It is further stated that in total four CCTV footage were collected, out of that one was found relevant and one was irrelevant and other two did not show any thing. It is further stated that there is a SMS by the present accused relating to present offence. It is further stated that co-accused Deepak stated about the offence that “very good fire”. It is further argued that present accused instigated the co-accused to kill the deceased. It is further argued that even statement of under section 164 Cr.P.C. was recorded and a CCTV footage corroborating that complainant was beaten by the accused side. It is stated that one pistol has been recovered from the co-accused Amit and two empty cartridges were recovered and one pallet was recovered from the dead body of deceased during postmortem. Further, it is stated that wound found on the present accused was simple and it is stated by expert that it is not possible to comment whether wound was caused by gun shot injury or otherwise. It is further claimed that there is mobile/SMS evidence collected from the mobile of the complainant against the accused. As such, present bail application is strongly opposed.

In the present case, it is a matter of record that co-accused Dushyant is already granted regular bail. Further, there is force in the arguments of learned counsel for accused that conduct of accused indicates contrary to the stand of prosecution i.e. why the accused side would accompany the deceased in the same e-rickshaw after committing the alleged offence in question, instead of fleeing from the place of alleged incident ,if there was pre planning to kill. Further, there is force in the arguments of learned counsel for accused as to why present accused will keep the weapon of alleged offence with him, even hours after the alleged incident in question, when as per the allegation of prosecution alleged offence is pre-planned . Further, PCR call is made by the accused side immediately after the incident. Further, at present it is a matter of

record that there are two cross FIR, one by each side bearing no. 193/2019 and 193/2020. It may be further noted that SHO concerned failed to register FIR at the instance of present accused u/s 307 IPC. As such, the learned Ilaka MM had to intervene and order to register the FIR against the present complainant side u/s 307 IPC. Further, it is not the present accused side, but complainant and his deceased brother who came to the house of present accused side. Not only that they were accompanied by other persons also. Further, there is no CCTV footage of actual shooting on record. The CCTV footage which is part of record only captures the scene before the actual shooting. It is already noted by this court in a connected anticipatory bail application that by such CCTV footage, it does not appear at this stage that present accused side is the clear aggressor. In fact in such CCTV footage some quarrel is going on between many persons who are stated to be accused side and complainant side persons and therefore, as well as the present incident is concerned, in which brother of the present complainant has expired, there are two different versions, one that of present complainant side and another that of accused side. Neither side version can be taken as gospel truth and it is a matter of trial in due course. Further, present bail application only relates to aspect of bail, parameters of which are already noted above in detail. That apart from nature of accusation and evidence therefor, gravity of the offence and punishment which the conviction will entail, the reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, character and behavior of the accused, means, position and standing of the accused in the Society, likelihood of the offence being repeated, reasonable apprehension of the witnesses being tampered with, balance between the rights of the accused and the larger interest of the Society/State are to be taken into account. It may further be noted that while a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be

refused. Same does not appear to be case at present. In fact, both sides are pursuing their own case as already noted above. Further, appropriate conditions can be imposed to secure the presence of the accused, that he does not tamper with the evidence or threaten the witness. Further, more importantly the present accused is not the actual attacker even as per the case of the prosecution, but is the family member of the actual attacker. Further, his presence at his house is natural. Further, it cannot be lost sight of that it is not the present accused side, but the complainant side which came to the house of other side. Further, it may be noted that interim bail of the present accused is extended at present by virtue of certain directions/orders by Hon'ble High Court and thereafter by Hon'ble Supreme Court in SLP(C)13021/2020 and not by the order of the Ilaka MM or by this court. Under above facts and circumstances, present accused is granted bail subject to furnishing of personal bond in the sum of **Rs. 30,000/- with two sound sureties of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

- (i) That he will appear before IO / Trial Court as and when called as per law.*
- (ii) He will not indulge in any kind of activities which are alleged against him in the present case.*
- (iii) That he will not leave India without permission of the Court.*
- (iv) He will not threaten the witness or tampering with evidence.*
- (v) He shall convey any change of address immediately to the IO and the court;*
- (vi) He shall also provide his mobile number to the IO/trial court;*

It is clarified that in case if the applicant/ accused is found to be violating any of the above conditions, the same shall be a ground for cancellation of bail and the State shall be at liberty to move an application for cancellation of bail.

I may observe that certain guidelines had been laid down by the Hon'ble Delhi High Court in the case of "*Ajay Verma Vs. Government of NCT of Delhi*" WP (C) 10689/2017 dated 08.03.2018

wherein it was observed and I quote as under:

“..... The trial courts should not only be sensitive but extremely vigilant in cases where they are recording orders of bail to ascertain the compliance thereof.....When bail is granted, an endorsement shall be made on the custody warrant of the prisoner, indicating that bail has been granted, along with the date of the order of bail.

- a) In case of inability of a prisoner to seek release despite an order of bail, it is the judicial duty of the trial courts to undertake a review for the reasons thereof.*
- b) Every bail order shall be marked on the file.*
- c) It shall be the responsibility of every judge issuing an order of bail to monitor its execution and enforcement.*
- d) In case a judge stands transferred before the execution, it shall be the responsibility of the successor judge to ensure execution.....”*

I note that in the present case the bail bonds have been directed to be furnished before the Ld. Trial Court/ Ld. MM and hence in terms of the above observations, the Ld. MM is impressed upon to inform this court about the following:

- a) The date on which conditions imposed by this court are satisfied;*
- b) The date of release of prisoner from jail;*
- c) Date of ultimate release of prisoner in case the prisoner is in jail in some other case.*

The copy of this order be sent to **Ld. MM** and also to the **Superintendent Jail** who shall also inform this court about all the three aspects as contained in the para herein above. The Superintendent Jail is also directed to inform this court if the prisoner is willingly not furnishing the personal bond or in case if he is unable to furnish the surety or any other reason given by the prisoner for not filing the bonds. One copy of this order be also sent to the **SHO Concerned** to ensure compliance.

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The observations made in the present bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.

The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain order through electronic mode. Copy of this order be also sent to Jail Superintendent concerned through electronic mode.

**NAVEEN
KUMAR
KASHYAP**
(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi)
21.12.2020

Digitally signed by
NAVEEN KUMAR
KASHYAP
Date: 2020.12.21
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IN THE COURT OF SH. NAVEEN KUMAR KASHYAP:
ADDITIONAL SESSIONS JUDGE-04:CENTRAL:
TIS HAZARI:DELHI

BAIL APPLICATION NO: 2214/2020

State v. Mohit
FIR No. : 530/2020
PS: Karol Bagh
U/S: 308 IPC

21.12.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State through VC.
Sh. B. S.Rathore, Ld. Counsel for applicant through VC.

Vide this order, the regular bail application dated 18.12.2020 filed by accused Mohit through counsel is disposed off.

The personal liberty is a priceless treasure for a human being. It is founded on the bed rock of constitutional right and accentuated further on human rights principle. The sanctity of liberty is the fulcrum of any civilized society. Deprivation of liberty of a person has enormous impact on his mind as well as body. Further article 21 Of the Constitution mandates that no person shall be deprived of his life or personal liberty except according to procedure established by law. Further India is a signatory to the International Covenant On Civil And Political Rights, 1966 and, therefore, Article 21 of the Constitution has to be understood in the light of the International Covenant On Civil And Political Rights, 1966. *Further* Presumption of innocence is a human right. Article 21 in view of its expansive meaning not only protects life and liberty, but also envisages a fair procedure. Liberty of a person should not ordinarily be interfered with unless there exist cogent grounds therefor. The fundamental principle of our system of justice is that a person should not be deprived of his liberty except for a distinct breach of law. If there is no substantial risk of the accused fleeing the course of justice, there is no

State v. Mohit
FIR No. : 530/2020
PS: Karol Bagh
U/S: 308 IPC

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reason why he should be imprisoned during the period of his trial. The basic rule is to release him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after convictions, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earlier times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial ,but in such case 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the constitution that any persons should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty under Article 21 of the Constitution upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439 CrPC, the court should keep in view the

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principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

But, the liberty of an individual is not absolute. The Society by its collective wisdom through process of law can withdraw the liberty that it has sanctioned to an individual when an individual becomes a danger to the societal order. A society expects responsibility and accountability from the member, and it desires that the citizens should obey the law, respecting it as a cherished social norm. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly thing which the society disapproves, the legal consequences are bound to follow.

Further discretionary jurisdiction of courts u/s 437 and 439 CrPC should be exercised carefully and cautiously by balancing the rights of the accused and interests of the society. Court must indicate brief reasons for granting or refusing bail. Bail order passed by the court must be reasoned one but detailed reasons touching merits of the case, detailed examination of evidence and elaborate documentation of merits of case should not be done.

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically

dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745**).

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for grant or refusal of bail to an accused in a non-bailable offence like, (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) Nature of accusation and evidence therefor, (iii) Gravity of the offence and punishment which the conviction will entail, (iv) Reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, (v) Character and behavior of the accused, (vi) Means, position and standing of the accused in the Society, (vii) Likelihood of the offence being repeated, (viii) Reasonable apprehension of the witnesses being tampered with, (ix) Danger, of course, of justice being thwarted by grant of bail, (x) Balance between the rights of the accused and the larger interest of the Society/State, (xi) Any other factor relevant and peculiar to the accused. (xii) While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. Furthermore, in the landmark judgment of **Gurucharan Singh and others v. State** (AIR 1978 SC 179), it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself

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mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

Further it may also be noted that it is also settled law that while disposing of bail applications u/s 437/439 Cr.P.C., courts should assign reasons while allowing or refusing an application for bail. But detailed reasons touching the merit of the matter should not be given which may prejudice the accused. What is necessary is that the order should not suffer from non-application of mind. At this stage a detailed examination of evidence and elaborate documentation of the merit of the case is not required to be undertaken. Though the court can make some reference to materials but it cannot make a detailed and in-depth analysis of the materials and record findings on their acceptability or otherwise which is essentially a matter of trial. Court is not required to undertake meticulous examination of evidence while granting or refusing bail u/s 439 of the CrPC.

I have heard both the sides and gone through the record.

It is argued that accused is in JC since 05.12.2020. As such, even the time to seek PC remand is over; that accused is a young person of just turned 18 years; that infact some quarrel took place between the accused and complainant and there was some fight between them; that he does not have any previous criminal record; that he is a poor person and street vendor; that infact the scooter of complainant hit the accused; that accused was discharged from the hospital on the same day; that there is no pre- planning of the alleged offence at all. No purpose would be served by keeping the accused in JC. As such, it is prayed that she be granted regular bail.

On the other hand, it is argued on behalf of the State that complainant alongwith his wife was going on his scooter and the accused spitted on the scooter of the complainant and when complainant objected, hot arguments took place and suddenly accused hit him with brick on his

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head; that accused was caught by the police and wife of the complainant; that during the course of investigation accused was arrested on the spot and at his instance brick used in the offence in question is recovered; that MLC result is simple; investigation is at crucial stage. As per record, there is no other criminal record of the present accused. As such, present bail application is strongly opposed.

I have heard both the sides and have gone through the record.

At present the offences alleged against the accused is upto 7 years only. Further, period to seek PC remand is already over. No purpose would be served by keeping accused in JC. That investigation and thereafter trial is likely to take time. Further, there is a presumption of innocence in favour of such accused. Further, appropriate terms can be imposed upon the accused in order to safeguard the interest of witness. Further, accused is a young person who just turned 18. There is no other criminal record of the present accused. Under above facts and circumstances, present accused is granted bail subject to furnishing of personal bond in the sum of **Rs. 20,000/- with one sound surety of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

(i) That he will appear before IO / Trial Court as and when called as per law.

(ii) He will not indulge in any kind of activities which are alleged against him in the present case.

(iii) That he will not leave India without permission of the Court.

(iv) He will not threaten the witness or tampering with evidence.

(v) He shall convey any change of address immediately to the IO and the court;

(vi) He shall also provide his mobile number to the

IO/trial court;

It is clarified that in case if the applicant/ accused is found to be violating any of the above conditions, the same shall be a ground for cancellation of bail and the State shall be at liberty to move an application for cancellation of bail.

I may observe that certain guidelines had been laid down by the Hon'ble Delhi High Court in the case of “*Ajay Verma Vs. Government of NCT of Delhi*” WP (C) 10689/2017 dated 08.03.2018 wherein it was observed and I quote as under:

“..... The trial courts should not only be sensitive but extremely vigilant in cases where they are recording orders of bail to ascertain the compliance thereof.....When bail is granted, an endorsement shall be made on the custody warrant of the prisoner, indicating that bail has been granted, along with the date of the order of bail.

- a) *In case of inability of a prisoner to seek release despite an order of bail, it is the judicial duty of the trial courts to undertake a review for the reasons thereof.*
- b) *Every bail order shall be marked on the file.*
- c) *It shall be the responsibility of every judge issuing an order of bail to monitor its execution and enforcement.*
- d) *In case a judge stands transferred before the execution, it shall be the responsibility of the successor judge to ensure execution.....”*

I note that in the present case the bail bonds have been directed to be furnished before the Ld. Trial Court/ Ld. MM and hence in terms of the above observations, the Ld. MM is impressed upon to inform this court about the following:

- a) *The date on which conditions imposed by this court are satisfied;*
- b) *The date of release of prisoner from jail;*

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c) *Date of ultimate release of prisoner in case the prisoner is in jail in some other case.*

The copy of this order be sent to **Ld. MM** and also to the **Superintendent Jail** who shall also inform this court about all the three aspects as contained in the para herein above. The Superintendent Jail is also directed to inform this court if the prisoner is willingly not furnishing the personal bond or in case if he is unable to furnish the surety or any other reason given by the prisoner for not filing the bonds. One copy of this order be also sent to the **SHO Concerned** to ensure compliance.

The observations made in the present bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.

The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain order through electronic mode. Copy of this order be also sent to Jail Superintendent concerned through electronic mode.

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ASJ-04(Central/Delhi)
21.12.2020

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IN THE COURT OF SH. NAVEEN KUMAR KASHYAP
ADDITIONAL SESSIONS JUDGE-04: CENTRAL:
TIS HAZARI COURTS: DELHI

Bail Application No.:2066/2020

State v. Vishal Marwah
FIR No. : 230/2006
P. S: Rajinder Nagar
U/s: 323,341 IPC

21.12.2020.

This court is also discharging bail roster duty.

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Mr. Vaibhav Nautiyal, Ld. LAC for accused/applicant
through VC.

Vide this order, regular bail application u/s 439 Cr.PC dated 01.12.2020 filed through counsel is disposed of.

It is argued on behalf of accused that he is in JC since 23.11.2020. That all the co-accused are acquitted vide order dated 07.11.2017. A copy of which is attached with the present application.

It is further argued that such applicant filed exemption application before learned Trial court stating that he was abroad. It is further stated that no summon was ever summoned upon him from the learned trial court. It is further argued that he is the permanent resident of Delhi and no purpose would be served by keeping him in JC. As such, it is prayed that he be granted regular bail.

On the other hand, it is argued by learned Addl.PP for the State that accused intentionally did not appear before learned trial court and was declared PO and as such rightly arrested on 21.11.2020. That his presence may not be secured if he is granted bail, having regard to his past conduct. I have heard both the sides.

The personal liberty is a priceless treasure for a human being. It is founded on the bed rock of constitutional right and accentuated

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further on human rights principle. The sanctity of liberty is the fulcrum of any civilized society. Deprivation of liberty of a person has enormous impact on his mind as well as body. Further article 21 Of the Constitution mandates that no person shall be deprived of his life or personal liberty except according to procedure established by law. Further India is a signatory to the International Covenant On Civil And Political Rights, 1966 and, therefore, Article 21 of the Constitution has to be understood in the light of the International Covenant On Civil And Political Rights, 1966. *Further* Presumption of innocence is a human right. Article 21 in view of its expansive meaning not only protects life and liberty, but also envisages a fair procedure. Liberty of a person should not ordinarily be interfered with unless there exist cogent grounds therefor. The fundamental principle of our system of justice is that a person should not be deprived of his liberty except for a distinct breach of law. If there is no substantial risk of the accused fleeing the course of justice, there is no reason why he should be imprisoned during the period of his trial. The basic rule is to release him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after convictions, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earlier times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial ,but in such case 'necessity' is the operative test. In this country, it would be quite

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contrary to the concept of personal liberty enshrined in the constitution that any persons should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty under Article 21 of the Constitution upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439 CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

But, the liberty of an individual is not absolute. The Society by its collective wisdom through process of law can withdraw the liberty that it has sanctioned to an individual when an individual becomes a danger to the societal order. A society expects responsibility and accountability from the member, and it desires that the citizens should obey the law, respecting it as a cherished social norm. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly thing which the society disapproves, the legal consequences are bound to follow.

Further discretionary jurisdiction of courts u/s 437 and 439 CrPC should be exercised carefully and cautiously by balancing the rights of the accused and interests of the society. Court must indicate brief reasons for granting or refusing bail. Bail order passed by the court must be reasoned one but detailed reasons touching merits of the case, detailed

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examination of evidence and elaborate documentation of merits of case should not be done.

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745**).

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for grant or refusal of bail to an accused in a non-bailable offence like, (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) Nature of accusation and evidence therefor, (iii) Gravity of the offence and punishment which the conviction will entail, (iv) Reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, (v) Character and behavior of the accused, (vi) Means, position and standing of the accused in the Society, (vii) Likelihood of the offence being repeated, (viii) Reasonable apprehension of the witnesses being tampered with, (ix) Danger, of course, of justice being thwarted by grant of bail, (x) Balance between the rights of the accused and the larger interest of the Society/State, (xi) Any other factor relevant and peculiar to the accused. (xii) While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be

refused. Furthermore, in the landmark judgment of **Gurucharan Singh and others v. State** (AIR 1978 SC 179), it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

Further it may also be noted that it is also settled law that while disposing of bail applications u/s 437/439 Cr.P.C., courts should assign reasons while allowing or refusing an application for bail. But detailed reasons touching the merit of the matter should not be given which may prejudice the accused. What is necessary is that the order should not suffer from non-application of mind. At this stage a detailed examination of evidence and elaborate documentation of the merit of the case is not required to be undertaken. Though the court can make some reference to materials but it cannot make a detailed and in-depth analysis of the materials and record findings on their acceptability or otherwise which is essentially a matter of trial. Court is not required to undertake meticulous examination of evidence while granting or refusing bail u/s 439 of the CrPC.

In the present case, the original offences alleged against the present accused were bailable in nature. The maximum punishment prescribed for the original offences is one year. Further, maximum punishment prescribed for the offences u/s 174A IPC is three years. Further, the original case resulted into acquittal of co-accused person as per record. Appropriate condition can be imposed upon the accused to secure his presence,

In above facts and circumstances, such accused is granted bail

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subject to furnishing of **personal bond in the sum of Rs. 20,000/- with two sound sureties of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

- i) Applicant shall not flee from the justice;*
- ii) Applicant shall not tamper with the evidence;*
- iii) Applicant shall not threaten or contact in any manner to the prosecution witnesses ,*
- iv) Applicant shall not leave country without permission;*
- v) Applicant shall convey any change of address immediately to the IO and the court;*
- vi) Applicant will not indulge in any kind of activities which are alleged against him in the present case.*
- vii) that he will surrender his passport to the learned Trial court concerned.***

It is clarified that in case if the applicants/ accused is found to be violating any of the above conditions, the same shall be a ground for cancellation of bail and the State shall be at liberty to move an application for cancellation of bail.

I may observe that certain guidelines had been laid down by the Hon'ble Delhi High Court in the case of “**Ajay Verma Vs. Government of NCT of Delhi**” WP (C) 10689/2017 dated 08.03.2018 wherein it was observed and I quote as under:

“..... The trial courts should not only be sensitive but extremely vigilant in cases where they are recording orders of bail to ascertain the compliance thereof.....When bail is granted, an endorsement shall be made on the custody warrant of the prisoner, indicating that bail has been granted, along with the date of the order of bail.

- a) In case of inability of a prisoner to seek release despite an order of bail, it is the judicial duty of the trial courts to undertake a review for the reasons thereof.*
- b) Every bail order shall be marked on the file.*

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- c) *It shall be the responsibility of every judge issuing an order of bail to monitor its execution and enforcement.*
- d) *In case a judge stands transferred before the execution, it shall be the responsibility of the successor judge to ensure execution.....”*

I note that in the present case the bail bonds have been directed to be furnished before the Ld. Trial Court/ Ld. MM and hence in terms of the above observations, the Ld. MM is impressed upon to inform this court about the following:

- a) *The date on which conditions imposed by this court are satisfied;*
- b) *The date of release of prisoner from jail;*
- c) *Date of ultimate release of prisoner in case the prisoner is in jail in some other case.*

The copy of this order be sent to **Ld. MM** and also to the **Superintendent Jail** who shall also inform this court about all the three aspects as contained in the para herein above. The Superintendent Jail is also directed to inform this court if the prisoner is willingly not furnishing the personal bond or in case if he is unable to furnish the surety or any other reason given by the prisoner for not filing the bonds. One copy of this order be also sent to the **SHO Concerned** to ensure compliance.

The observations made in the present bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.

The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain order through electronic mode. Copy of this order be also sent to Jail Superintendent concerned through electronic mode.

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**ASJ-04(Central/Delhi
21.12.2020**

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**IN THE COURT OF SH. NAVEEN KUMAR KASHYAP:
ADDITIONAL SESSIONS JUDGE-04: CENTRAL DISTRICT:
TIS HAZARI: DELHI.**

BAIL APPLICATION NO.:2021/2020

**State v. Mohd. Abdullah s/o Mohd. Rafiq
FIR No. : 212/2020
PS: Sarai Rohilla
U/S: 392, 394,397,411,34 IPC**

21.12.2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through
VC.

Mr. Hari Dutt Sharma learned LAC counsel for applicant
through VC.

Vide this order, the regular bail application under section 439 Cr.P.C. on behalf of accused dated 25.11.2020 moved through DLSA is disposed off.

I have heard both the sides and have gone through the record.

The personal liberty is a priceless treasure for a human being. It is founded on the bed rock of constitutional right and accentuated further on human rights principle. The sanctity of liberty is the fulcrum of any civilized society. Deprivation of liberty of a person has enormous impact on his mind as well as body. Further article 21 Of the Constitution mandates that no person shall be deprived of his life or personal liberty except according to procedure established by law. Further India is a signatory to the International Covenant On Civil And Political Rights, 1966 and, therefore, Article 21 of the Constitution has to be understood in the light of the International Covenant On Civil And Political Rights, 1966. *Further* Presumption of innocence is a human right. Article 21 in view of its expansive meaning not only protects life and liberty ,but also envisages a fair procedure. Liberty of a person should not ordinarily be

*State v. Mohd. Abdullah s/o Mohd. Rafiq
FIR No. : 212/2020
PS: Sarai Rohilla
U/S: 392, 394,397,411,34 IPC*

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interfered with unless there exist cogent grounds therefor. The fundamental principle of our system of justice is that a person should not be deprived of his liberty except for a distinct breach of law. If there is no substantial risk of the accused fleeing the course of justice, there is no reason why he should be imprisoned during the period of his trial. The basic rule is to release him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after convictions, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earlier times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial ,but in such case 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the constitution that any persons should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty under Article 21 of the Constitution upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as mark of disapproval of former

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conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439 CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

But, the liberty of an individual is not absolute. The Society by its collective wisdom through process of law can withdraw the liberty that it has sanctioned to an individual when an individual becomes a danger to the societal order. A society expects responsibility and accountability from the member, and it desires that the citizens should obey the law, respecting it as a cherished social norm. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly thing which the society disapproves, the legal consequences are bound to follow.

Further discretionary jurisdiction of courts u/s 437 and 439 CrPC should be exercised carefully and cautiously by balancing the rights of the accused and interests of the society. Court must indicate brief reasons for granting or refusing bail. Bail order passed by the court must be reasoned one but detailed reasons touching merits of the case, detailed examination of evidence and elaborate documentation of merits of case should not be done.

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of the

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Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745**).

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for grant or refusal of bail to an accused in a non-bailable offence like, (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) Nature of accusation and evidence therefor, (iii) Gravity of the offence and punishment which the conviction will entail, (iv) Reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, (v) Character and behavior of the accused, (vi) Means, position and standing of the accused in the Society, (vii) Likelihood of the offence being repeated, (viii) Reasonable apprehension of the witnesses being tampered with, (ix) Danger, of course, of justice being thwarted by grant of bail, (x) Balance between the rights of the accused and the larger interest of the Society/State, (xi) Any other factor relevant and peculiar to the accused. (xii) While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. Furthermore, in the landmark judgment of **Gurucharan Singh and others v. State** (AIR 1978 SC 179), it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that

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facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

Further it may also be noted that it is also settled law that while disposing of bail applications u/s 437/439 Cr.P.C., courts should assign reasons while allowing or refusing an application for bail. But detailed reasons touching the merit of the matter should not be given which may prejudice the accused. What is necessary is that the order should not suffer from non-application of mind. At this stage a detailed examination of evidence and elaborate documentation of the merit of the case is not required to be undertaken. Though the court can make some reference to materials but it cannot make a detailed and in-depth analysis of the materials and record findings on their acceptability or otherwise which is essentially a matter of trial. Court is not required to undertake meticulous examination of evidence while granting or refusing bail u/s 439 of the CrPC.

In the present case, it is argued that accused is falsely implicated in the present case and he is in JC since 19.06.2020. Chargesheet is already filed. As such, investigation is already complete. That co-accused Tarvaj is granted bail by JJB. There is no legally sustainable evidence against the present accused. As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by IO SI Vinod Nain and as also argued by the learned Addl.PP for the state, it is argued that there are specific and serious allegations against the present accused. That present accused alongwith two co-accused snatched mobile phone of the complainant and threatened to kill him when the complainant demanded back his mobile. The co-accused Nadeem took out a sharp and pointed knife and stabbed the complainant on his left leg and then all the four

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accused fled from there. Later such robbed mobile phone was recovered from present accused only. that he refused the TIP; that chargesheet is already filed. As such, present application is opposed.

I find force in the arguments of learned Addl.PP for the state. The offence is serious in nature and is nuisance to public at large. In the present case, complainant was stabbed with knife when complainant resisted in the attempt of accused side of robbing the mobile. Further such mobile is recovered from present accused only. As such, this court do not find sufficient reasons to enlarge present accused on bail in the present case.

With these observations, present application is dismissed.

The observations made in the present bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.

Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Copy of this order be sent to IO/SHO concerned and Jail Superintendent concerned through electronic mode.

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**(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi
21.12.2020**

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IN THE COURT OF SH. NAVEEN KUMAR KASHYAP
ADDITIONAL SESSIONS JUDGE-04: CENTRAL:
TIS HAZARI COURTS: DELHI

Bail Application No.:2065/2020

State v. Vishal Marwah
FIR No. : 238/2006
P. S: Rajinder Nagar
U/s:506,448,174A,34 IPC

21.12.2020.

This court is also discharging bail roster duty.

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Mr. Vaibhav Nautiyal, Ld. LAC for accused/applicant
through VC.

Vide this order, regular bail application u/s 439 Cr.PC dated 01.12.2020 filed through counsel is disposed of.

It is argued on behalf of accused that he is in JC since 23.11.2020. That all the co-accused are acquitted vide order dated 07.11.2017. A copy of which is attached with the present application.

It is further argued that such applicant filed exemption application before learned Trial court stating that he was abroad. It is further stated that no summon was ever summoned upon him from the learned trial court. It is further argued that he is the permanent resident of Delhi and no purpose would be served by keeping him in JC. As such, it is prayed that he be granted regular bail.

On the other hand, it is argued by learned Addl.PP for the State that accused intentionally did not appear before learned trial court and was declared PO and as such rightly arrested on 21.11.2020. That his presence may not be secured if he is granted bail, having regard to his past conduct. I have heard both the sides.

The personal liberty is a priceless treasure for a human being.

It is founded on the bed rock of constitutional right and accentuated further on human rights principle. The sanctity of liberty is the fulcrum of any civilized society. Deprivation of liberty of a person has enormous impact on his mind as well as body. Further article 21 Of the Constitution mandates that no person shall be deprived of his life or personal liberty except according to procedure established by law. Further India is a signatory to the International Covenant On Civil And Political Rights, 1966 and, therefore, Article 21 of the Constitution has to be understood in the light of the International Covenant On Civil And Political Rights, 1966. *Further* Presumption of innocence is a human right. Article 21 in view of its expansive meaning not only protects life and liberty, but also envisages a fair procedure. Liberty of a person should not ordinarily be interfered with unless there exist cogent grounds therefor. The fundamental principle of our system of justice is that a person should not be deprived of his liberty except for a distinct breach of law. If there is no substantial risk of the accused fleeing the course of justice, there is no reason why he should be imprisoned during the period of his trial. The basic rule is to release him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after convictions, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earlier times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial ,but in such

case 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the constitution that any persons should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty under Article 21 of the Constitution upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439 CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

But, the liberty of an individual is not absolute. The Society by its collective wisdom through process of law can withdraw the liberty that it has sanctioned to an individual when an individual becomes a danger to the societal order. A society expects responsibility and accountability from the member, and it desires that the citizens should obey the law, respecting it as a cherished social norm. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly thing which the society disapproves, the legal consequences are bound to follow.

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be reasoned one but detailed reasons touching merits of the case, detailed examination of evidence and elaborate documentation of merits of case should not be done.

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745**).

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for grant or refusal of bail to an accused in a non-bailable offence like, (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) Nature of accusation and evidence therefor, (iii) Gravity of the offence and punishment which the conviction will entail, (iv) Reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, (v) Character and behavior of the accused, (vi) Means, position and standing of the accused in the Society, (vii) Likelihood of the offence being repeated, (viii) Reasonable apprehension of the witnesses being tampered with, (ix) Danger, of course, of justice being thwarted by grant of bail, (x) Balance between the rights of the accused and the larger interest of the Society/State, (xi) Any other factor relevant and peculiar to the accused. (xii) While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his

liberty to subvert justice or tamper with the evidence, then bail will be refused. Furthermore, in the landmark judgment of **Gurucharan Singh and others v. State** (AIR 1978 SC 179), it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

Further it may also be noted that it is also settled law that while disposing of bail applications u/s 437/439 Cr.P.C., courts should assign reasons while allowing or refusing an application for bail. But detailed reasons touching the merit of the matter should not be given which may prejudice the accused. What is necessary is that the order should not suffer from non-application of mind. At this stage a detailed examination of evidence and elaborate documentation of the merit of the case is not required to be undertaken. Though the court can make some reference to materials but it cannot make a detailed and in-depth analysis of the materials and record findings on their acceptability or otherwise which is essentially a matter of trial. Court is not required to undertake meticulous examination of evidence while granting or refusing bail u/s 439 of the CrPC.

In the present case, the original offences alleged against the present accused were bailable in nature. The maximum punishment prescribed for the original offences is two years. Further, maximum punishment prescribed for the offences u/s 174A IPC is three years. Further, the original case resulted into acquittal of co-accused person as per record. Appropriate condition can be imposed upon the accused to secure his presence,

: 6 :

In above facts and circumstances, such accused is granted bail subject to furnishing of **personal bond in the sum of Rs. 20,000/- with two sound sureties of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

- i) Applicant shall not flee from the justice;*
- ii) Applicant shall not tamper with the evidence;*
- iii) Applicant shall not threaten or contact in any manner to the prosecution witnesses ,*
- iv) Applicant shall not leave country without permission;*
- v) Applicant shall convey any change of address immediately to the IO and the court;*
- vi) Applicant will not indulge in any kind of activities which are alleged against him in the present case.*
- vii) that he will surrender his passport to the learned Trial court concerned.*

It is clarified that in case if the applicants/ accused is found to be violating any of the above conditions, the same shall be a ground for cancellation of bail and the State shall be at liberty to move an application for cancellation of bail.

I may observe that certain guidelines had been laid down by the Hon'ble Delhi High Court in the case of “*Ajay Verma Vs. Government of NCT of Delhi*” WP (C) 10689/2017 dated 08.03.2018 wherein it was observed and I quote as under:

“..... The trial courts should not only be sensitive but extremely vigilant in cases where they are recording orders of bail to ascertain the compliance thereof.....When bail is granted, an endorsement shall be made on the custody warrant of the prisoner, indicating that bail has been granted, along with the date of the order of bail.

- a) In case of inability of a prisoner to seek release despite an order of bail, it is the judicial duty of the trial courts to undertake a review for the reasons thereof.*

: 7 :

- b) *Every bail order shall be marked on the file.*
- c) *It shall be the responsibility of every judge issuing an order of bail to monitor its execution and enforcement.*
- d) *In case a judge stands transferred before the execution, it shall be the responsibility of the successor judge to ensure execution.....”*

I note that in the present case the bail bonds have been directed to be furnished before the Ld. Trial Court/ Ld. MM and hence in terms of the above observations, the Ld. MM is impressed upon to inform this court about the following:

- a) *The date on which conditions imposed by this court are satisfied;*
- b) *The date of release of prisoner from jail;*
- c) *Date of ultimate release of prisoner in case the prisoner is in jail in some other case.*

The copy of this order be sent to **Ld. MM** and also to the **Superintendent Jail** who shall also inform this court about all the three aspects as contained in the para herein above. The Superintendent Jail is also directed to inform this court if the prisoner is willingly not furnishing the personal bond or in case if he is unable to furnish the surety or any other reason given by the prisoner for not filing the bonds. One copy of this order be also sent to the **SHO Concerned** to ensure compliance.

The observations made in the present bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.

The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain order through electronic mode. Copy of this order be also sent to Jail Superintendent concerned through electronic mode.

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(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi)
21.12.2020

State Vs Monish Alam
FIR No.:266/2020
PS: Prashad Nagar
U/s 452, 427, 336, 34 IPC & 25, 27, 54, 59 Arms Act

21/12/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.

None for the applicant / accused.

Even IO is not present.

Issue fresh notice to IO in terms of previous order for the next date of hearing.

Put up for **21/01/2021**. Interim protection, if any, to continue in terms of previous orders till

next date of hearing only.

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(Naveen Kumar Kashyap)
ASJ-04/Central/21.12.2020

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Bail Matters No.: 2213/2020
State Vs Aamir
FIR No.:201/2020
PS: Kamla Market

21/12/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.

Mr. Ashok Kumar, learned counsel for the applicant through VC.

Reply filed. Copy supplied through electronic mode.

Put up for orders / clarification for tomorrow i.e. **22/12/2020**.

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(Naveen Kumar Kashyap)
ASJ-04/Central/21.12.2020

Bail Matters No.: 1522/2020
State Vs Ramu
FIR No.:217/2020
PS: Rajinder Nagar

21/12/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.
Mr. V.V. Arya, learned counsel for the accused through VC.
IO SI Rjabir Singh in person through VC.

Arguments heard on this anticipatory bail application.

It is stated by the IO that accused has not joined investigation after granting interim protection by this Court.

On the other hand, it is stated by the counsel for the accused that they did not receive any notice from the IO to join investigation. But, it is stated by the IO that information was given on phone to the brother of accused.

Heard.

IO is supposed to give intimation as per the provision of Cr.PC, particularly, having regard to section 160 Cr.PC. Even if it is given by electronic mode in the present pandemic situation, still in any case it is supposed to be in writing and not oral, so that other concerned authority can look into the same for various purposes.

In any case, accused is directed to appear before the IO / SHO concerned on 23/12/2020 at 2:00 PM at Police Station and thereafter as and when so directed by the IO as per law.

Put up for further arguments / clarification for **21/01/2021**.

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(Naveen Kumar Kashyap)
ASJ-04/Central/21.12.2020

State Vs Shamshad Qureshi, Nishad Begum and Sajid
FIR No.: 161/2020
PS:I.P. Estate
U/s 498A, 406, 377,34 IPC

21/12/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.

Mr. M.M.Khan, learned counsel for the applicants through VC.

Mr. Mohd. Tareek learned counsel for complainant through VC.

Arguments heard in detail.

Put up for orders at 4:00 PM.

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(Naveen Kumar Kashyap)
ASJ-04/Central/21.12.2020

At 4:45 PM

Certain clarification is required. As such, put up for clarification / appropriate orders for tomorrow i.e. **22/12/2020**. Interim order to continue in terms of previous order till the next date of hearing.

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(Naveen Kumar Kashyap)
ASJ-04/Central/21.12.2020

BAIL APPLICATION.: 1835/2020

**State v. Pankaj Nagar
FIR NO: 289/2020
PS: Prasad Nagar**

21.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Sh. Virender Singh, Ld. Counsel for applicant through VC.
Proxy IO/SI Ranvir Singh is present through VC.

It is submitted by IO that as per information received, case is already committed to Sessions.

In view of the same, Ld. Counsel for applicant wants to withdraw the present application with liberty to file before concerned Sessions court.

Heard. Allowed.

Present application is dismissed as withdrawn accordingly.

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**(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
21.12.2020**

M CrI. No.: 230/2020

**State v. Sanjeev Luthra
FIR NO: 171/2019
PS: Karol Bagh**

21.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Sh. Puneet Maheshwari, Ld. Counsel for applicant through VC.
Sh. Amandeep Singh, Ld. Counsel for complainant through VC.

This is an application for reduction of bail bond amount/condition u/s 440 Cr.P.C. Admittedly, the interim bail order in question was passed by Ld. MM. Further, the application for reduction of bail bond is rejected by Ld. MM vide order dated 05.12.2020. Against such order, the accused has certain grievances and has challenged the same before this bail roster session court. But as this court is discharging bail duty roster matters, the remedy against such order dated 05.12.2020 lies somewhere else as per law ,and in any case not before this court which is discharging only bail roster duty.

With these observations, present application is dismissed with liberty to seek appropriate remedy against such order dated 05.12.2020.

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**(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
21.12.2020**

M.Crl. No.:231/2020

**State v. Jai Prakash Meena
FIR NO: 137/2020
PS: Rajinder Nagar**

21.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Sh. Vaibhav Kumar, Ld. Counsel for applicant through VC.
Further, S.N. Shukla, LAC for applicant through VC.

It is submitted by LAC that regarding some issue of reduction of Bail bond condition, order is already passed somewhere around 09.12.2020.

In view of the same, present application is disposed of as issue already stands decided.

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Additional Sessions Judge-04/Central
21.12.2020**

BAIL APPLICATION.: 2126/2020

**State v. Ashfaq Alam
FIR NO: 210/2019
PS: Kamla Market**

21.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Sh. Shamsul Haq, Ld. Counsel for applicant through VC.

Arguments in detail heard.

Put up for clarifications from IO, orders on bail of co-accused and appropriate order for 22.12.2020.

Issue notice to IO accordingly for tomorrow.

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Additional Sessions Judge-04/Central
21.12.2020**

BAIL APPLICATION.: 2219/2020

**State v. Adil
FIR NO: 206/2020
PS: Hauz Qazi
U/S: 376 IPC**

21.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Sh. Raja Nadeem, Ld. Counsel for applicant through VC.

Reply not filed.

Put up for reply, arguments and appropriate orders for 26.12.2020.

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Additional Sessions Judge-04/Central
21.12.2020**

BAIL APPLICATION.: 1083/2020
BAIL APPLICATION.: 1084/2020
BAIL APPLICATION.: 1085/2020
BAIL APPLICATION.: 1086/2020
BAIL APPLICATION.: 1087/2020
BAIL APPLICATION.: 1089/2020

State v. Kamal Bhandari
State v. Namita Dilawari
State v. Hemant Kumar
State v. Ashok Kumar
State v. Hitesh
State v. Nirmal Arora

FIR NO: 287/2020

PS: Sarai Rohilla

21.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.

None on behalf of applicant/accused since morning despite repeated calls.

On the last effective date of hearing on 23.11.2020 and 09.11.2020 also , nobody was present on behalf of such applicant. As such, applications are dismissed in default.

Interim order, if any stands vacated accordingly.

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Additional Sessions Judge-04/Central
21.12.2020

BAIL APPLICATION.: 1979/2020

**State v. Tarjit Singh Gambhir & anr.
FIR NO: 206/2020
PS: RajinderNagar**

21.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Senior Counsel Ms. Geeta Luthra alongwith briefing counsel
Sh. Ujjwal Jail, Ld. Counsel for applicant.
Further, complainant is also present through VC with counsel
Sh. Damanprit Singh Kohli.
Husband of complainant is also present through VC from Germany.
SI Soni Lal is also present through VC.

Further arguments in detail heard from all the sides over 1 hour.

Put up for orders/clarifications, if any on 22.12.2020.

Ahlmad is directed to send through e-mail , the documents relied by each side ,to the other side, during course of the day itself.

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Additional Sessions Judge-04/Central
21.12.2020**

BAIL APPLICATION.: 2128/2020

**State v. Ankush Dubey
FIR NO: 293/2020
PS: Prasad Nagar**

21.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Sh. Lalit Yadav and Ms. Vinita Singh, Ld. Counsels for applicant
through VC.
IO/SI Ranvir Singh is present through VC.

Arguments in detail heard.

Put up for orders on 22.12.2020.

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Additional Sessions Judge-04/Central
21.12.2020**

BAIL APPLICATION.: 2129/2020

**State v. Shahnawaz
FIR NO: 35/2020
PS: Kamla Market**

21.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
None for applicant.

Put up for further arguments/consideration and appropriate orders for

07.01.2021.

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**(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
21.12.2020**

BAIL APPLICATION.: 2215/2020

**State v. Ravi @ Kangdi
FIR NO: 448/2020
PS: Karol Bagh**

21.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Sh. Bhupinder Mehtani, Ld. Counsel for applicant through VC.

Vide this order, the second bail application dated 19.12.2020 for regular bail is disposed of.

It is argued by learned counsel for accused that his first regular bail application was dismissed on 25.11.2020 and interim bail application was dismissed on 28.11.2020. It is further stated that there is no other criminal record of the present accused. That he is in JC since 10.10.2020. That accused was discharged on the same day. That he has superficial injury only. Most importantly, it is stated that there is change in the circumstances as now chargesheet is already filed. It is further stated that accused is a permanent resident of Delhi. As such, it is prayed that he be granted regular bail.

On the other hand, it is submitted by SI Mukesh Tomar as also argued by learned Addl. PP for the state that there is no material change in the circumstances since dismissal of his last bail application. That all the grounds which are taken in the present application was also taken in the last application also.

I find force in the arguments of learned Addl. PP for the state. The only change in the circumstances since dismissal of last bail application, is claimed to be that chargesheet is now filed. But the fact remains that same was only one of the ground for rejection of earlier bail application on 25.11.2020. The offence in question is punishable for imprisonment upto life. Further, the accused and complainant are known to each other . As such there is possibility of threatening/pressurizing the witness/victim. As such, at this stage, this court is not inclined to grant regular bail to the present accused. **With these observations, present bail application is dismissed.**

The observations made in the present bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.

Copy of this order be provided to both sides through electronic mode. Further, a copy of this order be sent to Jail Superintendent concerned through electronic mode.

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Additional Sessions Judge-04/Central
21.12.2020

BAIL APPLICATION

**_ State v. Deepak @ Bunty
(Applicant Ajay Sharma)
FIR No. : 506/2015
PS: Nabi Karim**

21.12.2020.

Undersigned is also discharging bail roster duty.

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.
None for applicant.

**Put up for appearance on behalf of applicant and arguments in terms of
previous order for 21.01.2021.**

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(Naveen Kumar Kashyap)

ASJ-04/Central/21.12.2020

BAIL APPLICATION

**_ State v. Sunil Rathore
FIR No. : 415/2015
PS: Kotwali**

21.12.2020.

Undersigned is also discharging bail roster duty.

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.
Sh. Ravinder Aggarwal, Ld. counsel for applicant through VC.

Certain clarifications required including regarding role of present accused and the earlier bail application, if any filed by such accused.

At request, put up for further arguments and orders for 23.12.2020.

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(Naveen Kumar Kashyap)

ASJ-04/Central/21.12.2020

BAIL APPLICATION

**_ State v. Raju Deb
(Applicant Siddharth)
FIR No. : 427/2017
PS: Kashmere Gate**

21.12.2020.

Undersigned is also discharging bail roster duty.

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.
Sh. Amresh Kumar, Ld. Counsel for applicant through VC.

This is fresh bail application filed on behalf of Siddharth.

Issue notice to IO to file reply.

Put up for reply, arguments and appropriate orders for 21.01.2021.

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(Naveen Kumar Kashyap)

ASJ-04/Central/21.12.2020

BAIL APPLICATION

**_ State v. Abid
FIR No. : 167/2020
PS: Nabi Karim
U/S: 392,397,34 IPC**

21.12.2020.

Undersigned is also discharging bail roster duty.

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.
Sh. S.N. Shukla, LAC for applicant through VC.

This is fresh regular bail application filed by accused through DLSA.

Issue notice to IO to file reply.

Put up for reply, arguments and appropriate orders for 21.01.2021.

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(Naveen Kumar Kashyap)

ASJ-04/Central/21.12.2020

BAIL BOND

**_ State v. Gaurav Chauhan
(Applicant Sahi Ram)
FIR No. : 199/2009
PS: Kashmere Gate**

21.12.2020.

Undersigned is also discharging bail roster duty.

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.
Sh. Lokesh Chandra, Ld. Counsel for accused through VC.
Both sureties Jaswant Singh and Harish Chand are present physically in court.

Report dated 21.12.2020 is filed by SI Sandeep Yadav .

As per such report addresses as well as security of both sureties is verified.

In view of such report, both bail bond is accepted. Original FDR/security be retained on record.

Release warrant be prepared accordingly today itself.

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(Naveen Kumar Kashyap)
ASJ-04/Central/21.12.2020

BAIL BOND

**_ State v. Raj Bahadur
(Applicant Sanjay @ Dharambir)
FIR No. :130/2014
PS: Kamla Market**

21.12.2020.

Undersigned is also discharging bail roster duty.

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.
Sureties Lokesh Kumar and Vikrant Kaushik are present physically in court.

Bail bond furnished.

IO/SHO to verify the address as well as security furnished by such accused persons.

Put up for verification report and appropriate order for 23.12.2020 at 2 pm.

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(Naveen Kumar Kashyap)

ASJ-04/Central/21.12.2020

SC: 27504/2016
State v. Akhilesh Yadav
FIR no.: 393/2014
PS: Subzi Mandi

21.12.2020

Undersigned is also discharging work of Bail Roster duty.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State through VC.
All the three accused are stated to be present through VC.
Sh. Kapil Yadav, Ld. Counsel for accused Akhilesh and Aditya Yadav.

Put up for purpose fixed/arguments for 27.04.2021.

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(Naveen Kumar Kashyap)
ASJ-04/Central/21.12.2020

CR No.344/2019
Bipin Kumar & Anr Vs State & Anr

21.12.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

In view of the above-mentioned orders/directions, file is taken up through Webex.

Undersigned is also discharging work of Bail Roster duty.

Present: Mr. Gurpreet Singh alongwith Mr. Jatin S Sethi, learned counsel for revisionist through VC.

Mr. Pawan Kumar, learned Addl.PP for the State through VC.

Arguments heard for over half an hour in this case through VC.

Learned counsel for revisionist wants to file certain case law and written synopsis no exceeding 3 pages.

Put up for orders / clarification for **21/01/2021**. Such written synopsis and case be filed atleast two days before the next date of hearing.

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(Naveen Kumar Kashyap)
ASJ-04/Central/21.12.2020

**CR No. 96, 97, 98, 99, 100, 101, 140, 141, 142, 143 & 144/2020
Deepak Talwar Vs Income Tax Office**

21.12.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

In view of the above-mentioned orders/directions, file is taken up through Webex.

Undersigned is also discharging work of Bail Roster duty.

Present: Mr. Prabhav Ralli, learned counsel for the revisionist Deepak Talwar through VC.

Mr. Anish Dhingra, learned counsel for respondent / ITO through VC.

It is pointed out by the counsel for the respondent that in the last ordersheet, his name is wrongly mentioned as Anuj Dhingra. The same is now stands corrected as Anish Dhingra.

It is further stated that the documents of the main revision petition are not yet supplied to the respondent side.

On the other hand, it is stated by the counsel for the revisionist that he will supply the same during the course of the day through electronic mode without going into the controversy whether the same is supplied or not. Further, learned counsel for the respondent seeks sometime to file reply.

As such, put up for reply, arguments and appropriate orders for **25/01/2021** as three weeks time is sought by respondent to file copy of reply and copy of the same be supplied to the counsel for revisionist at least two days before the next date of hearing.

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(Naveen Kumar Kashyap)
ASJ-04/Central/21.12.2020

CA No. 54824/2016
Rakesh Soni Vs The State

21.12.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

In view of the above-mentioned orders/directions, file is taken up through Webex.

Undersigned is also discharging work of Bail Roster duty.

Present: Mr. Rajat Manchanda, learned counsel for appellant Rakesh Soni
alongwith such appellant is present through VC.

Mr. Pawan Kumar, learned Addl.PP for the State through VC.

Part arguments heard in detail.

Put up for further arguments and for appropriate orders for **27/04/2021**.

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(Naveen Kumar Kashyap)
ASJ-04/Central/21.12.2020

**CA No. 54780/2016
Neena Vs The State & Anr**

21.12.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

In view of the above-mentioned orders/directions, file is taken up through Webex.

Undersigned is also discharging work of Bail Roster duty.

Present: None for appellant.

Mr. Pawan Kumar, learned Addl.PP for the State through VC.

Mr. Rajat Manchanda, learned counsel for respondent Rakesh Soni
alongwith such respondent is present through VC.

Put up with the connected matter for **27/04/2021**.

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ASJ-04/Central/21.12.2020

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CA No. 59/2020
Rohit @ Machhi Vs The State of NCT of Delhi

21.12.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

In view of the above-mentioned orders/directions, file is taken up through Webex.

Undersigned is also discharging work of Bail Roster duty.

Present: Mr. Pawan Kumar, learned Addl.PP for the State through VC.
Mr. S.N. Shukla, learned LAC for appellant through VC.

As per report of production warrant of convict Rohit @ Machhi, it is stated that he has already been released on parole from Jail in view of the directions by the Hon'ble High Court of Delhi.

It is further stated by the counsel for the convict that he contacted to the wife of convict and she has given some phone number but the same number is of the neighbor of such convict.

As such, put up for appearance of convict in Court physically at the time of pronouncement of judgement for **23/12/2020**.

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(Naveen Kumar Kashyap)
ASJ-04/Central/21.12.2020

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SC No.: 29027/2016
State Vs Aryan Dass @ Bhagi Dhar Dass
FIR No.518/2016
PS Sarai Rohilla

21.12.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

In view of the above-mentioned orders/directions, file is taken up through Webex.

Undersigned is also discharging work of Bail Roster duty.

File is taken up today as 20/12/2020 was Sunday.

Present: Mr. Pawan Kumar, learned Addl.PP for the State through VC.

None.

Put up for purpose fixed and for appearance of counsel for accused and accused for

27/01/2021.

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(Naveen Kumar Kashyap)
ASJ-04/Central/21.12.2020