

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

Application No.:- 2211/2020
State Vs Atul Bhardwaj
FIR No.99/2020
P. S. Karol Bagh
U/s: 356, 379, 411,34 IPC

24/12/2020

Present: Mr . Pawan Kumar, Learned Addl. PP for State is available
through VC.

Ms. Asha, learned counsel for accused through VC.

Vide this order, bail application u/s 439 Cr.PC dated 17/12/2020
filed by applicant through counsel is disposed off.

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

State Vs Atul Bhardwaj
FIR No.99/2020
P. S. Karol Bagh
U/s: 356, 379, 411,34 IPC

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.

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 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.

It is stated in the application that he was arrested in an Arms Act case and in the present case he is falsely implicated that too based on his disclosure statement only; that nothing is recovered from him or at his instance; that there is no previous conviction against him; As such, it is prayed that he be granted regular bail.

On the other hand, in reply dated 19/12/2020 filed by SI Baljinder Singh, it is stated that mobile phone of complainant Ashok Kumar was snatched and present FIR was registered; that during committing the offence, scooty was left by the snatcher which was later found to be stolen property in another FIR of PS Pashchim Vihar; that such mobile phone was not recovered. But later on, present accused made disclosure statement confessing involvement in present case alongwith co-accused Vipin and Vishal; that such mobile phone is already recovered from co-accused Vishal. But as per such reply nothing is recovered from the present accused. As such, present bail application is strongly opposed.

In the present case, the maximum punishment of the offences alleged against the present accused is 3 years. Further nothing is recovered from the present accused as per the stand of the IO, nor he is arrested on the spot nor as per such reply he is identified by the complainant so far. As such, this Court fails to understand on what basis, the arrest of present accused was necessary, particularly in view of the directions by Hon'ble Supreme Court in Arnesh Kumar judgment. Further, as far as present accused is concerned, nothing remains to be recovered at his instance. In fact, the period for seeking police remand is already over. **As such, a copy of this order be sent to ACP concerned for his information and sensitizing the police officials under him, including about the judgment of hon'ble Supreme Court in case of Arnesh Kumar case.** In any case, no purpose would be served by keeping such accused in JC. Trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case of present nature.

In above facts and circumstances, such accused is granted bail subject to furnishing of **personal bond in the sum of Rs. 15,000/- 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 Delhi without prior permission of the Trial Court concerned.*
- 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 and further share his location through mobile phone once in everyweek till filing of chargesheet and thereafter as may be directed by the learned 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;*

: 7 :

- 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 bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain through electronic mode. Copy of this order be sent to concerned Jail Superintendent. Copy of this order be sent to IO / SHO concerned. Copy of order be uploaded on website.

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.

NAVEEN
KUMAR
KASHYAP

Digitally signed by
NAVEEN KUMAR
KASHYAP
Date: 2020.12.24 17:03:14
+05'30'

(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi)
24.12.2020

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

Application No.:- 2264/2020
State Vs Abid Ali
FIR No.11611/2019
P. S. Rajinder Nagar
U/s: 379, 411 IPC

24/12/2020

Present: Mr . Pawan Kumar, Learned Addl. PP for State is available through VC.

Mr Alok Dev, learned counsel for accused through VC.

Vide this order, bail application u/s 439 Cr.PC dated 21/12/2020 filed by applicant through counsel is disposed off.

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.

State Vs Abid Ali
FIR No.11611/2019
P. S. Rajinder Nagar
U/s: 379, 411 IPC

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.

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 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.

It is stated in the application that he is in JC since 01/12/2020; that he was arrested later on that too by the police officials of another Police Station; that based on alleged disclosure statement he was arrested in the present case; that alleged recovery of the vehicle in question is already made from the present accused. As such, he is no more required for investigation; that allegations against the accused are only under section 411 IPC; that he is the only bread

earner of his family and due to pandemic situation his family is entirely dependent upon him and there is no one to look after his family; that he is neither a convict nor habitual offender; As such, it is prayed that he be granted regular bail.

On the other hand, in reply dated 24/12/2020 filed by PSI Dharmendra, as also argued by learned Addl.PP for the State it is stated that stolen scooter in question is recovered from the present accused. That he is involved in another criminal case in FIR No. 258/2018 u/s 323, 341, 452, 509, 34 IPC. As such, present bail application is strongly opposed.

In the present case, the maximum punishment of the offences alleged against the present accused is 3 years. The allegations against the accused are u/s 411 IPC only. Further, as far as present accused is concerned, nothing remains to be recovered at his instance. In fact, the period for seeking police remand is already over. As such, no purpose would be served by keeping such accused in JC. Trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case of present nature.

In above facts and circumstances, such accused is granted bail subject to furnishing of **personal bond in the sum of Rs. 7,500/- 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 Delhi without prior permission of the Trial Court concerned.*
- 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 and further share his location through mobile phone once in everyweek till filing of chargesheet and thereafter as may be directed by the learned 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

: 7 :

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 bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain through electronic mode. Copy of this order be sent to concerned Jail Superintendent. Copy of this order be sent to IO / SHO concerned. Copy of order be uploaded on website.

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.

NAVEEN
KUMAR
KASHYAP

Digitally signed by
NAVEEN KUMAR
KASHYAP
Date: 2020.12.24
17:03:49 +05'30'

(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi)
24.12.2020

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

Bail Application No. 2173/2020

State v. Nitin Aggarwal
FIR No.:458/2020
PS: Karol Bagh
U/s: 420,406,506 IPC

24.12.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Mr. Vijay Kr. Gupta, learned counsel for the applicant / accused through VC.

Arguments already heard. Today, case was fixed for orders.

Vide this order, the bail application under section 439 Cr.P.C. on behalf of accused dated 15.12.2020 filed through counsel is disposed of.

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 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.

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. (**Sundeeep 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, it is argued on behalf of accused that he was arrested in present case on 19.09.2020. That he was granted bail in another FIR 394/2020 by Ld. MM itself on 28.11.2020. It is further argued that present dispute is of civil nature only. That he has already filed petition before Hon'ble High Court for quashing present FIR. It is further argued that investigation is already over. It is further argued based on case law that there is no inducement at all, therefore, all the ingredients of section 415 IPC not satisfied at all. That even if the payment not made still complainant would have given jewellery in question to the accused. That aspect of deception is missing at all. It is further argued that his regular bail application is rejected by Ld. MM in present case. As such, it is prayed that he be granted regular bail as offence alleged in any case is punishable upto seven years only.

On the other hand, it is stated by learned counsel for complainant that such accused is habitual in such cheating offences. That earlier also, he cheated another person by claiming himself falsely to be owner of certain properties. That the specific allegations against the

present accused. That present accused is silent about recovery of the jewellery item which are admittedly taken by him which is also clear from para-6 of the application of bail before Ld. MM. As such, conduct of the accused even after committing crime is far from satisfactory and he does not deserve regular bail.

Further, in reply filed by SI Shri Narain as also argued by learned Addl. PP for the state, it is argued that present accused in a well planned manner cheated and thereafter dishonestly misappropriated jewellery worth about 39 lacs. That accused is known to Aman Gupta who is director of complainant company. That accused gave cheques for payment of such jewellery purchase to complainant. That on the date of such cheques, as per investigation the accused did not had the sufficient money for encashment of such cheques and same continued to be the position till presentation of such cheques. As such, the accused was having malafide intention right from beginning. It is further argued that in fact his wife in connivance of such accused made a misleading report to bank that cheque book is stolen. As such, present application is strongly opposed.

I find force in the arguments of learned Addl.PP for the state and the learned counsel for complainant. From the material on record, prima facie it is clear that in a well planned manner, the accused cheated the complainant, who was known to him, by issuing cheques on payment of jewellery purchase and he was well aware at the time of handing such cheques that such cheques would not be encashed. Further, the law is already settled that just because, offence is made out under section 138 NI Act is made out and still no bar for separate offence under section 420,406 IPC etc. Further, none of such jewellery is recovered so far. Further, it appears that accused did not cooperate with the investigation in this regard. As such, having regard to the nature of offence and the manner in which it is committed and the incriminating material against the accused, this court is not inclined to grant bail at this stage. **With these observations present bail application is disposed of as dismissed.**

: 7 :

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 also sent to Jail Superintendent concerned through electronic mode.

NAVEEN
KUMAR
KASHYAP

Digitally signed by
NAVEEN KUMAR
KASHYAP
Date: 2020.12.24
17:04:23 +05'30'

**(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi
24.12.2020**

Anticipatory Bail

Bail Matters No.: 1979/2020
State Vs Tarjit Singh Gambhir & Anr
FIR No. : 206/2020
PS: Rajinder Nagar
U/S: 377, 109 IPC

24/12/2020

at 4p.m.

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

Arguments in detail from accused and complainant, totaling for more than two hours, already concluded yesterday. Further even clarification already given by IO yesterday. Today the case was fixed for orders / clarification, if any.

Vide this order, present joint application dated 21/11/2020 filed by Mr. Tarjit Singh Gambhir and Mrs. Kamaljeet Gambhir under section 438 Cr.P.C. filed through counsel is disposed off.

*State Vs Tarjit Singh Gambhir & Anr
FIR No. : 206/2020
PS: Rajinder Nagar
U/S: 377, 109 IPC*

In the present case, a well detailed joint application raising various grounds and even mentioning case law in the application itself apart from facts of the case is filed by the applicants.

In nutshell, it is argued on behalf of applicants by learned senior counsel Ms. Geeta Luthra that present FIR is blatant misuse of process of law and in connivance with the local police officials of concerned PS Rajinder Nagar. Same is in utter disregard to the guidelines given by Delhi Police itself and various judgments / directions given by Hon'ble High Court. It is further argued that it is clear from the circular of Delhi Police itself, a copy of which is attached with such bail application, all the alleged related offences arising out of matrimonial dispute are to be first referred to CAW Cell .But still in the present case straight away, in a haste , present FIR is registered u/s 377 IPC. It is further argued that not only that ,later on even the present applicants, who are father in law and mother in law of the complainant, are tried to be made co-accused baselessly by adding the section 109 IPC. That even if allegations

State Vs Tarjit Singh Gambhir & Anr
FIR No. : 206/2020
PS: Rajinder Nagar
U/S: 377, 109 IPC

made by the complainant are taken on face value, just for the sake of arguments, still there cannot be any abatement , as same is after offence is committed. It is further argued that abuse of process can also be seen by the fact that present complainant got registered a separate complaint u/s 406 and 498A IPC at Gurgram. It is further argued that applicant Tarjit is a senior citizen and suffering from various old age problems. It is further argued that even applicant No.2 is old and a woman. It is further argued that complainant even refused her internal medical examination. Further, learned Counsel relied on a number of case law on 377 IPC and 109 IPC. Further, it is stated that admittedly complainant and her husband Jai were having relationship before the marriage for about 3 years and thereafter they decided to get married in 2018. That even before marriage complainant lived together with the her would be husband and traveled to various places including abroad on many occasions. As such, it is argued even if it is presumed for the sake of arguments that such husband did indulge in such alleged activities of the nature of offence u/s 377 IPC, whether same was with the

State Vs Tarjit Singh Gambhir & Anr
FIR No. : 206/2020
PS: Rajinder Nagar
U/S: 377, 109 IPC

consent or not of the complainant, is a matter of Trial. Therefore, it is argued that it is even doubtful whether main offence u/s 377 IPC itself is made out, in view of the present position of law on section 377 IPC. It is further argued that there is matrimonial dispute between both the sides and even mediation between two sides have failed. Therefore, possibility of false implication to put pressure on the accused side, cannot be ruled out at all. It is further argued that even the manner in which investigation is being conducted and the casual manner in which first reply dated 26/11/2020 filed by the Police, which is duly forwarded by Mr. Dharmender who is of the rank of inspector, it is clear that investigation is not being carried out in a fair manner. It is further argued that no purpose would be served by arresting the present applicant. Further, they are no more required for the purpose of investigation. That even otherwise they are ready to join investigation as and when so directed and fully cooperate with the same. It is further stated that offence if any committed, is in Germany and not in India, as after marriage complainant and her husband Jai were living there. It is further claimed that

State Vs Tarjit Singh Gambhir & Arr

FIR No. : 206/2020

PS: Rajinder Nagar

U/S: 377, 109 IPC

the complaint did not lived at her in laws house at rajinder nagar. As such, it is prayed that Applicants be release on bail in the event of their arrest in the present FIR.

On the other hand, learned counsel for the complainant Mr. Dhamanjeet Singh also made submissions, assisting the learned Addl.PP, in detail. In nutshell, he argued that the mediation was initiated at the instance of accused side only and because of their fault the same could not succeed. It is further argued that in the circular of Delhi Police itself, it is clarified that constitution of CAW Cell does not bar directly registration of FIR if provision of section 154 Cr.PC is satisfied relating to an offence which is an independent offence, like 377 IPC in present case. It is further argued that as far as present applicants are concerned, there are specific allegations against them which in any case satisfied the provisions of section 107 IPC and amounts to abatement. It is further stated that there is conversation between the main accused , the complainant ,and applicants by which it is crystal clear that husband of complainant Mr. Jai was not mending his way regarding his unnatural physical relationship with the

State Vs Tarjit Singh Gambhir & Arr

FIR No. : 206/2020

PS: Rajinder Nagar

U/S: 377, 109 IPC

complainant and applicants instigated him. It is further stated that it is clear that complainant did not consent for such unnatural physical relationship. It is further argued that being a wife she waited for some time and made all possible attempts to persuade her husband to stop committing such offence u/s 377 IPC .That when such accused did not stop, she complained and pointed out the same to her mother in law and father in law hoping that they will solve the problem. But instead of solving the same, they abated the offence being committed by the husband Jai and because of such act of commission and or omission on the part of present applicants, the husband Jai even committed such unnatural sex with her amounting to offence u/s 377 IPC thereafter also. As such, left with no option ultimately the complainant had to got registered the present FIR. As such, it is stated that there is no delay or inaction on the part of complainant. Further learned counsel for complainant relied on certain case law in support of his arguments. He further argued that complainant very much lived at Rajinder Nagar area and he has placed on record documentary evidence in support of

State Vs Tarjit Singh Gambhir & Arr

FIR No. : 206/2020

PS: Rajinder Nagar

U/S: 377, 109 IPC

thereon. As such, he further argued that FIR is rightly registered at PS Rajinder Nagar.

It is further argued that as far as matrimonial matter related to offences u/s 406, 498A etc. are concerned, the complainant is taking separate action as per law and same cannot be objected to as such. It is further argued that there is a confession of husband Jai during mobile communication, that too before registration of FIR in which it is clear that he committed the main offence in question. It is further stated that as such offence is committed without the consent of the complainant, as such, same cannot be taken lightly just because the same is committed by the husband.

Further, it is stated by complainant herself who participated in present proceedings that there was no physical intimacy between her and Jai before marriage, therefore, there was no occasion to prejudge the unnatural sexual orientation of her husband. It is further stated by her that such Jai was even trying to persuade her to indulge in unnatural sexual acts stating that the same is now even allowed by Hon'ble Supreme Court in India.

State Vs Tarjit Singh Gambhir & Anr
FIR No. : 206/2020
PS: Rajinder Nagar
U/S: 377, 109 IPC

As such, present application is strongly opposed on behalf of complainant.

Further, in reply filed by main IO SI Soni Lal dated 21/12/2020, it is clarified that first reply dated 26/11/2020 was filed by Probationary SI Vandana which was forwarded by Addl. SHO Devender. It is further clarified that even at the time of filing of such reply dated 26/11/2020 ,and infact much before filing of present application on 21/11/2020, in view of the statement given by the complainant U/s 164 Cr.PC, section 109 IPC was already added. Therefore, it is argued that there is no basis in the arguments of learned counsel for accused side that such section 109 IPC is hastily added recently only. Further, the IO has placed before this Court her case diary which is duly paginated in printed form in support of such submissions. It is further argued by learned Addl.PP for the State that complainant has supported her allegations even in her statement u/s 164 Cr.PC.It is further submitted that present applicant told the complainant that it is complainant's duty to keep her husband happy in any way. It is

State Vs Tarjit Singh Gambhir & Arr

FIR No. : 206/2020

PS: Rajinder Nagar

U/S: 377, 109 IPC

further submitted in reply that complainant has produced one pen drive regarding transcript of conversation between complainant , her husband and in-laws which also corroborates the allegations of complainant. As such, present anticipatory bail is strongly opposed by the prosecution.

In the present case, it is clear that the allegations u/s 377 IPC are not against the present applicant but their son. But it is true that complainant has supported and repeated her version during her statement u/s 164 Cr.PC. Further certain transcript are also placed on record which are allegedly recordings made by complainant. As such, complainant was well aware about such recording and what to speak or not, during such conversation .On the other hand, other side / applicant No.1 Tarjit Singh was not so aware.Further, most of such recordings are between the complainant and her husband Jai ,who is not the applicant in the present application. Further, the allegations against the present accused is not of the main offence u/s 377 IPC but about alleged abatement of the same i.e. u/s 109 IPC. Further as per material placed

State Vs Tarjit Singh Gambhir & Arr

FIR No. : 206/2020

PS: Rajinder Nagar

U/S: 377, 109 IPC

before this court , as per the allegation of prosecution side ,the applicants are directing,persuading, the complainant not to resist the alleged acts by the husband. But same nowhere shows to instigating the main accused/husband Jai to do such acts.

.Further, the bitter relationship between the two sides, because of matrimonial dispute at present, cannot be ignored totally. Further, it is not even stated in reply filed by the IO on 26/11/2020 or in second reply filed by main IO dated 21/12/2020 that custodial interrogation of present accused / applicants is required. Further, originally the offence u/s 109 IPC was not there in the FIR and same is added later on during investigation.

Further, the applicant No.1 is aged about 71 years and applicant no.2 is a woman. It appears that evidence against them is already collected during investigation. As such, having regard to the case law discussed above, nature of allegations against the present applicant and attending circumstances, coupled with the fact that allegations against them are at best u/s 109 IPC and that requirement of their custodial interrogation is not even stated in reply by IO , both the applicants be released on bail in

State Vs Tarjit Singh Gambhir & Arr
FIR No. : 206/2020
PS: Rajinder Nagar
U/S: 377, 109 IPC

the event of his / her arrest on furnishing of personal bond and surety bond in the sum of Rs. 30,000/-, subject further following conditions.

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

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

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

iv) He / she will not contact or threaten the witness / complainant (except in case some specific directions otherwise by any Court of law) or tampering with evidence.

v) That they will provide their mobile numbers to the IO / SHO concerned.

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.

With these observations present bail application is disposed off. Learned

*State Vs Tarjit Singh Gambhir & Anr
FIR No. : 206/2020
PS: Rajinder Nagar
U/S: 377, 109 IPC*

counsel for the applicant / accused as well as complainant are at liberty to collect the order through electronic mode. Further copy of this order be sent to Jail Superintendent concerned, IO and SHO. Copy of order be uploaded on the website.

It is further made clear the observations made in the present anticipatory 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.

NAVEEN
KUMAR
KASHYAP

Digitally signed by
NAVEEN KUMAR
KASHYAP
Date: 2020.12.24
17:07:54 +05'30'

(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi/24/12/2020)

State Vs Tarjit Singh Gambhir & Anr
FIR No. : 206/2020
PS: Rajinder Nagar
U/S: 377, 109 IPC

BAIL APPLICATION.: 2042/2020

**State v. Karan Arora
FIR NO: 353/2020
PS: Lahori Gate**

24.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Sh. Abhay Kumar, Ld. Counsel for applicant/accused alongwith
accused through VC.

Part further arguments heard.

Issue notice to appear with file on next date of hearing at the time of
further arguments/orders/clarifications on this anticipatory bail application on
12.01.2021.

Interim protection to continue in terms of previous order.

NAVEEN
KUMAR
KASHYAP

Digitally signed by
NAVEEN KUMAR
KASHYAP
Date: 2020.12.24
17:08:28 +05'30'

**(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
24.12.2020**

BAIL APPLICATION.: 2263/2020

State v. Abhishek

FIR NO: NA

PS: Sarai Rohilla Railway station

24.12.2020

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

This is an application for anticipatory bail dated 17.12.2020.

It is pointed out by court staff that same application dated 17.12.2020 for anticipatory bail by accused Abhishek S/o Anil was listed on 22.12.2020 and thereafter same is now listed for 28.12.2020. It appears that such application is now again filed. As such, there is repetition in the same but today reply is received in the same.

As such, put up on date already fixed i.e. 28.12.2020. Further, it is pointed out by Reader of the court that in the application listed on 22.12.2020, instead of anticipatory bail, regular bail is listed. Same is clarified that, that application was for anticipatory bail.

Put up on 28.12.2020 i.e. date already fixed.

NAVEEN
KUMAR
KASHYAP

Digitally signed by
NAVEEN KUMAR
KASHYAP
Date: 2020.12.24
17:08:47 +05'30'

(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
24.12.2020

Bail Matters No.:2265/2020
State Vs Fardeen
FIR No.:210/2020
PS: Sarai Rohilla

24/12/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.
Mr. Suraj Prakash Sharma, learned counsel for applicant through VC.

This is a fresh application seeking regular bail dated 22/12/2020 filed on behalf of applicant through counsel.

Reply filed by the IO.

Part arguments heard in detail.

It is claimed that such accused is seen in CCTV footage. On the other hand, the same is denied by the accused side.

As such, put up for further arguments and appropriate orders for **29/12/2020**.

Issue notice to IO to appear through VC alongwith such CCTV footage on the next date of hearing.

NAVEEN Digitally signed
KUMAR by NAVEEN
KASHYAP KUMAR KASHYAP
Date: 2020.12.24
17:09:57 +05'30'

(Naveen Kumar Kashyap)
ASJ-04/Central/24.12.2020

Bail Matters No.: 1624/2020
State Vs Vishal @ Rhual
FIR No.:22/2020
PS:

24/12/2020

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

Despite repeated calls none has appeared.

As such, put up for appearance of counsel for accused / applicant, further arguments and appropriate orders for **29/12/2020**.

NAVEEN Digitally signed
KUMAR by NAVEEN
KASHYAP KUMAR KASHYAP
Date: 2020.12.24
17:10:22 +05'30'

(Naveen Kumar Kashyap)
ASJ-04/Central/24.12.2020

**M CrI. Nos. 191/2020 & 193/2020
State Vs Sonu & Danish
FIR No.:444/2020
PS: Sarai Rohilla**

24/12/2020

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

These are applications u/s 440 Cr.PC or reduction of surety amount.

Record perused.

In any case bail was granted by Learned MM 04 Central District on 23/11/2020. As such, such application for reduction need to be moved before such learned MM and in view of the judgments passed by Hon'ble High Court and Hon'ble Supreme Court from time to time, by Hon'ble High Court in case titled "*Ajay Verma Vs. Government of NCT of Delhi*" WP (C) 10689/2017 dated 08.03.2018.

Thereafter, in any case, the accused still has grievance, then he can move before Learned Sessions Court as per law but not before bail duty roster Court. With these observations, present applications are dismissed with advise to the accused to take appropriate action as per law. A copy of this order be sent to learned MM for information only.

NAVEEN
KUMAR
KASHYAP

Digitally signed by
NAVEEN KUMAR
KASHYAP
Date: 2020.12.24
17:10:38 +05'30'

**(Naveen Kumar Kashyap)
ASJ-04/Central/24.12.2020**

BAIL APPLICATION

**State v. Taufiq @ Kala
(Applicant Sunny)
FIR No. : 20/2016
PS: Crime Branch
U/s: 364A,395,342,420,468,471,120B IPC**

24.12.2020.

Undersigned is also discharging bail roster duty.

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

Reply already filed.

Part arguments heard.

**Put up for further arguments with case file on physical hearing day on
06.01.2021.**

NAVEEN
KUMAR
KASHYAP

Digitally signed by
NAVEEN KUMAR
KASHYAP
Date: 2020.12.24
17:11:13 +05'30'

(Naveen Kumar Kashyap)

ASJ-04/Central/24.12.2020

MISC. APPLICATION

_ State v. Vinod @ Dada
FIR No. : 39/2019
PS: Lahori Gate
U/s: 394,397,307,411,120B,34 IPC

24.12.2020.

Undersigned is also discharging bail roster duty.

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.
Sh. Ashutosh Thakur, Ld. Counsel for applicant/complainant through VC.

Further arguments heard from Ld. Addl. PP for the state.

Put up for orders/clarifications on these two applications for release of money on physical hearing day on 06.01.2021.

NAVEEN
KUMAR
KASHYAP
(Naveen Kumar Kashyap)
ASJ-04/Central/24.12.2020

Digitally signed by
NAVEEN KUMAR
KASHYAP
Date: 2020.12.24
17:11:33 +05'30'

MISC APPLICATION

CR-249/20

Uma Shanker Kapoor V. State

24.12.2020.

Undersigned is also discharging bail roster duty.

Present: Sh. Nitesh Kumar Singh, Ld. Counsel for applicant/revisionist through VC.
Mr. Pawan Kumar ,Ld. Addl. PP for the State/respondent through VC.

This is an application for early hearing.

Heard.

Next date of hearing is pre-poned to 06.01.2021.

Accordingly, earlier date of 20.04.2021 stands cancelled.

NAVEEN
KUMAR
KASHYAP

Digitally signed by
NAVEEN KUMAR
KASHYAP
Date: 2020.12.24
17:11:47 +05'30'

(Naveen Kumar Kashyap)

ASJ-04/Central/24.12.2020

MISC APPLICATION

**_ State v. Davar @ Dava @ Kancha
(applicant Bashu @ Bangali)
FIR No. : 38/2020
PS: Kashmere Gate**

24.12.2020.

Undersigned is also discharging bail roster duty.

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

In this, accused was granted bail vide order dated 05.08.2020. But he could not fill the bail bond condition regarding producing the surety. As such, present application is filed.

Put up for arguments and appropriate orders on 07.01.2021.

NAVEEN
KUMAR
KASHYAP

Digitally signed by
NAVEEN KUMAR
KASHYAP
Date: 2020.12.24
17:12:03 +05'30'

(Naveen Kumar Kashyap)

ASJ-04/Central/24.12.2020

State Vs Naresh & others
(Application for bail of Raj Kumar)
FIR No. 192/2016
P. S. Subzi Mandi

24.12.2020

This Court is also discharging bail roster duty.

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

This is a fresh application seeking regular bail filed on behalf of applicant from Jail through DLSA Central District.

Issue notice of this application to IO to file reply by the next date of hearing.

Put up for reply, arguments and appropriate orders for **13/01/2021**.

NAVEEN
KUMAR
KASHYAP

Digitally signed by
NAVEEN KUMAR
KASHYAP
Date: 2020.12.24 16:46:05
+05'30'

(Naveen Kumar Kashyap)
ASJ-04/Central/24.12.2020

**State Vs Pooja Gupta & others
(Application for Pooja Gupta)
FIR No. 141/2015
P. S. Darya Ganj**

24.12.2020

This Court is also discharging bail roster duty.

Present: Mr. Pawan Kumar, learned Addl.PP for State through VC.
Mr. S.N. Shukla, learned LAC for applicant through VC.
Such accused is stated to be on interim bail.

This is the 5th application seeking regular bail filed on behalf of applicant through DLSA Central District.

Issue notice of this application to IO to file reply by the next date of hearing.

Put up for reply, arguments and appropriate orders for **13/01/2021**.

NAVEEN
KUMAR
KASHYAP

Digitally signed by
NAVEEN KUMAR
KASHYAP
Date: 2020.12.24
16:46:30 +05'30'

**(Naveen Kumar Kashyap)
ASJ-04/Central/24.12.2020**

State Vs Imran alias Akhtar Khan & others
(Bail Bond of Vishal alias Honey)
FIR No. 227/2020
P. S. Wazirabad

24.12.2020

This Court is also discharging bail roster duty.

Present: Mr. Pawan Kumar, learned Addl.PP for State through VC.
Mr. Rajesh Rothore, learned LAC for applicant.

Fresh bail bond filed.

IO / SHO to verify the surety as well as address of surety and file report by the next date of hearing.

Put up for report for 26/12/2020 at 12:00 noon before Learned Vacation Judge.

NAVEEN
KUMAR
KASHYAP

Digitally signed by
NAVEEN KUMAR
KASHYAP
Date: 2020.12.24
16:46:50 +05'30'

(Naveen Kumar Kashyap)
ASJ-04/Central/24.12.2020