

State Vs. Nageshwar Shah

PS: I.P Estate

ऋषभ कपूर
RISHABH KAPOOR
महानगर दण्डाधिकारी-03
Metropolitan Magistrate-03
केन्द्रीय जिला कमरा नं. 150
Central District, Room No. 150
तीस हजारी न्यायालय, दिल्ली
Tis Hazari Courts, Delhi

15.07.2020:

Present: None

The present application has been sent to the residence of undersigned today by Sh. Atma Ram (Ahlmad), in view of order dated 14.07.2020 passed by Ms. Shama Gupta Ld. Duty MM.

Same is taken up for hearing *through VCC in view of Circular No. 679-6899/CMM/Central/DR/2020 dated 29.06.2020.*

Put up for Arguments through VCC over Cisco Webex on 16.07.2020 at 12:30 PM.

Ld. Counsel for applicant and IO, be joined for hearing of the matter at scheduled time.

Scanned copy of this order is being sent to Sh. Atma Ram (Ahlmad) through whatsapp/email, for compliance.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.


(RISHABH KAPOOR)
MM-03 (Central), THC, Delhi
15.07.2020

State vs. Neeraj
 FIR No: 02/12
 PS: IP Estate

ऋषभ कपूर
RISHABH KAPOOR
 महानगर दण्डाधिकारी-03
 Metropolitan Magistrate-03
 केन्द्रीय जिला कमरा नं. 150
 Central District, Room No. 150
 तीस हजारी न्यायालय, दिल्ली
 Tis Hazari Courts, Delhi

15.07.2020:

Present: None

Sh. Atma Ram, Ahlmad of this court has telephonically informed the undersigned that the present clarificatory Letter no. F.12/SCJ-12/AS(UT)/2020/1782 dated 14.07.2020 , is received today.

The letter no. F.12/SCJ-12/AS(UT)/2020/1782 dated 14.07.2020 under the signatures of Dy. Superintendent, Central Jail No.12, Mandoli along with record of main case file titled as State Vs. Neeraj is also sent to the residence of undersigned by the Ahlmad, today.

Keeping in view the urgent nature of the matter, Same is taken up for hearing *through VCC in view of Circular No. 679-6899/CMM/Central/DR/2020 dated 29.06.2020.*

Letter no. F.12/SCJ-12/AS(UT)/2020/1782 dated 14.07.2020 under the signatures of Dy. Superintendent, Central Jail No.12, is perused. Clarification has been sought regarding status of accused Neeraj in respect of case FIR No. 02/2012 u/s 379/411/34 IPC PS I.P Estate.

Since, from perusal of case record, it perceives that accused Neeraj was admitted on bail in case FIR NO.02/2020 at PS IP Estate on 02.04.2012 and upon coming into knowledge of fact qua his detention in Mandoli Jail in case pertaining to PS Khajoori Khas, production warrants were issued qua him on 05.02.2020 returnable for 22.04.2020, and as per record the surety bonds furnished by accused were never forfeited in the present case. In such circumstances as the purpose of issuing NBWs against accused was not punitive but to secure his attendance, therefore keeping in view the prevailing emergent situation which has arisen due to COVID-19 pandemic, and in the larger interests of justice, it is hereby clarified that the **NBWs issued against accused on 08.05.2019 stands cancelled and his custody is no more required in present case FIR NO. 02/2012 u/s 379/411/34 IPC PS I.P Estate.**

Scanned copy of this order is being sent through email/whatsapp to Ahlmad Sh. Atma Ram for sending the same to Concerned Jail superintendent through all permissible modes including email, for information and compliance, if any at his end.


 15/07/2020

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.



(RISHABH KAPOOR)

MM-03 (Central), THC, Delhi

15.07.2020

Dev Marbles Vs. Anil Kumar Jain (Bail Application.)

Ct. Cases. 525274/2016

15.07.2020

Present: Sh. Rajan Sharma, Ld. Counsel for applicant/accused (through VCC over Cisco Webex)

Sh. Nasir Ahmed, Ld. Counsel for complainant/respondent (through VCC over Cisco Webex)

Matter is heard through VCC over CISCO Webex Application at 1:55 PM.

Ld. Counsel for applicant submits that as per the instructions received from Perokar/son of accused/applicant, there does not exist any chances of settlement between parties.

It is prayed that present application may be disposed off, on merits.

This order shall dispose off the application for grant of regular bail u/s 437 Cr.PC., moved on behalf of ***applicant/accused Anil Kumar Jain.***

It is stated that the applicant is innocent and has been falsely implicated in the present case. It is further averred that applicant is a sole bread earner having a family to look after. It is further averred that custody of applicant/accused is no more required in present case. With these averments prayer is made for enlarging applicant on bail.

In reply filed, the application is opposed citing that applicant/accused has duped the complainant to part away with a sum of Rs.10 Lacs. It is further contended that applicant/accused is involved in many other cases of like nature and is a habitual offender. It is further contended that if enlarged on bail, the applicant will flee away from the process of law


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and his presence during the course of trial will not be secured. Hence, prayer is made for dismissal of the present application.

Ld. Counsel for applicant submits that the applicant is not the beneficiary of the allegedly cheated amount and rather same was transferred in bank account of Step Trading Company, with which applicant has no concern. It is further submitted that applicant is undergoing detention in present case since 28.02.2020 and due to his continued detention in prison, there exists chances of his contracting Covid-19 disease.

Per contra, Ld. Counsel for complainant submits that applicant has changed his address three times during the pendency of present case and his presence could be secured after a lapse of more than 5 years. It is further contended that applicant is residing in a rented accommodation in Noida U.P, therefore if enlarged on bail, he will again abscond and evade the trail of the case. It is also contended that recovery of the cheated amount is yet to be effected from applicant/accused.

In the present case, the applicant/accused was summoned for offence punishable u/s 420 IPC on 16.07.2018 was remanded to judicial custody on 28.02.2020. It is also not disputed that the complainant has filed a complaint case u/s 138 NI Act against accused/applicant, with regard to transaction in question and same is pending adjudication. So far as question of recovery of the allegedly cheated amount from applicant/accused is concerned, effecting such recovery is not the function of this court, when admittedly a complaint case u/s 138 NI Act, is already pending adjudication. There does not exist any apprehension that if enlarged on bail, applicant/accused will dissuade the prosecution witnesses. Further, the trial of the case would take a long time and till then the liberty of the accused cannot be curtailed, when his custody is as such not required for any purpose. Even otherwise also, the presence of the accused during the course of proceedings of this case, can be ensured by taking sufficient sureties undertaking to ensure his presence. If so, in the circumstances, I am of the view that there exists no ground in further curtailing the liberty of the applicant/accused.

At this juncture, it is also pertinent to cite the observations made by the Hon'ble apex court *In Sanjay Chandra versus CBI (2012) 1SCC 40*, wherein it was observed that the courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest 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 un-convicted persons should be held


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in custody pending trial to secure their attendance at trial but in such cases, necessity is the operative test. The Hon'ble Apex court further observed that in this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person 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 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 that it would be improper for any court to refuse bail as a mark of this approval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for purpose of giving him a taste of imprisonment as a lesson.

In the light of the discussion made above, I am of the view that the contentions of the complainant, appears to be untenable and as such, there exists no reasonable justification, in not enlarging the applicant/accused, on bail. Accordingly, the accused/applicant Anil Kumar Jain is hereby ordered to be enlarged on bail, subject to following conditions;

1. That the applicant shall furnish personal bonds sum of **sum of Rs.20,000/- with two sureties in like amount each**, to the satisfaction of **Ld. Duty MM (on court duty)**.
2. That the applicant shall make himself available during the remaining proceedings of present case and when required to do so by the court;
3. That the applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing any facts to the court or the police;
4. That the applicant shall not tamper with the complainant's evidence nor he will try to win over the complainant's witnesses or terrorize them in any manner; and
5. That the applicant shall not deliberately and intentionally act in a manner which may tend to delay the trial of the case.
6. That the applicant shall not leave the territories of India during the pendency of present case proceedings except with the permission of the court.
7. That the applicant shall not ordinarily change his place of residence and in case of any change in his address, same shall be duly notified by him to complainant and the court.

The application is accordingly disposed of.


15/07/2020

Scanned copy of this order is being sent to Sh. Atma Ram (Ahlmad) through whatsapp/email for transmitting the same to the Ld. Counsel for applicant and complainant, electronically and also for compliance.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.



(RISHABH KAPOOR)

MM-03 (Central), THC, Delhi

15.07.2020

Manjusha Vs. Pamaljeet Singh

CC No. 528960/2016

15.07.2020

Present: Sh. Manu Minocha, Ld. Counsel for Complainant (through VCC over Cisco Webex)

Matter is heard through VCC over CISCO Webex Application at 2:30 PM.

The present case was listed for today vide enbloc dates given due to Covid-19 pandemic.

Matter is at the stage of arguments on point of summoning.

An email was received from counsel for complainant at email id of this court today i.e on 15.07.2020, seeking permission for withdrawal of present case in view of settlement arrived between complainant and proposed accused persons. Same is taken up for hearing through VCC in view of Circular No. 6797-6899/CMM/Central/DR/2020 dated 29.06.2020.

Case file was sent to residence of undersigned by Sh. Atma Ram (Ahlmad) today.

Ld. Counsel for complainant submits that the complainant has entered into an amicable settlement with proposed accused persons and she does not wish to continue the present case proceedings and same may be dismissed as withdrawn.

In view of statement at bar made by counsel for complainant regarding the amicable settlement between parties, the prayer is accepted and complainant is permitted to withdraw the present complaint. The scanned copy of statement qua withdrawal of the present case, is being sent through email id of the counsel for complainant, with a direction to complainant to fill her name/parentage/residential address in her own handwriting and thereafter duly affix her signatures on same. After needful, the scanned copy of duly signed statement of complainant be sent back through email id of court.

Be awaited. Put up after some respite.

Taken up again at 3:55 PM

At this stage, scanned copy of statement of complainant Ms. Manjusha Kumar with particulars i.e name/parentage/residential address duly filled in her handwriting, bearing her signatures is


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received through email id of the court. It is stated that complainant has arrived at an amicable settlement with proposed accused persons and does not wish to continue the present proceedings. It is further stated that present complaint be dismissed as withdrawn. The complainant has also undertaken to submit the statement in original within 15 days of reopening of courts. For the purposes of identity, the complainant has also sent scanned copy of aadhar card duly attested by her.

In view of the statement of complainant, as it emerges that the parties have arrived at an amicable settlement, therefore continuing present proceedings would be an exercise of futility. Accordingly, present complaint is dismissed as withdrawn, with a direction to complainant to submit her original statement within 15 days of reopening of courts.

Stands disposed off.

File be consigned to records after due completion.

Scanned copy of this order is being sent to Sh. Atma Ram (Ahlmad) through whatsapp/email for transmitting the same to the counsel for complainant and also for compliance. One copy of order be also uploaded on CIS.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.



(RISHABH KAPOOR)

MM-03 (Central), THC, Delhi

15.07.2020