

State Vs. Ajay Patwa.

e-FIR No. 011514/2020

PS Rajender Nagar

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

20.07.2020

Present: Sh. Vakil Ahmad Ld. APP for State (through VCC over Cisco Webex)

Sh. Jitender Kumar Sharma Ld. Counsel for applicant/accused (through VCC over Cisco Webex)

IO/ASI Brijender Kumar (through VCC over Cisco Webex)

Matter is heard through VCC over CISCO Webex Application at 12:33 PM.

The present urgent application was filed on behalf of the applicant on email id of this court on 18.07.2020. Same is taken up for hearing through VCC in view of Circular No. 6797-6899/CMM/Central/DR/2020 dated 29.06.2020.

Scanned copy of reply of under the signatures of IO/ASI Brijender Kumar is received through email id of the court. Copy already stands supplied to counsel for applicant/accused, electronically.

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

It is averred on behalf of applicant/accused that he has been falsely implicated in the present case. It is further averred that the applicant/accused is undergoing custody since 08.06.2020 and no useful purpose shall be served in his further detention. It is further averred that the accused has no involvement in the present case. With these averments, prayer is made for grant of bail to accused.

Ld. APP for the State submits that the accused shall not be released on bail as he is a habitual offender, having previous involvements.

On perusal of the scanned copy of previous conviction/involvement report received

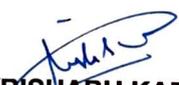
Jitender Kumar
20/07/2020.

along with reply of IO (through email), it emerges that the accused is having previous involvements in certain other cases, involving serious offences. More particularly, the accused has been shown to have complicity in respect of case FIR No. 137/2020 u/s 452/392/34 IPC, Case FIR No. 35/2020 u/s 392/34 IPC both at PS Rajender Nagar, Case FIR No. 484/2016 u/s 392/34 IPC PS Prasad Nagar, case FIR No. 240/2017 u/s 356/379/411/34 IPC PS Punjabi Bagh, case FIR No. 126/2017 u/s 392/34 IPC PS Inder Puri. If that be so, the apprehension of prosecution that if enlarged on bail, he will commit the offences of like nature or will dissuade the material prosecution witnesses, appears to be well justified.

In such circumstances, this court is of the firm view that no ground for grant of bail is made out to the **accused/applicant Ajay Patwa**. Accordingly, the present application deserves dismissal and same is hereby **dismissed**.

Scanned copy of this order is being sent to Sh. Manoj Kumar (Assistant Ahlmad) through whatsapp/email for transmitting the same to the Counsel for applicant/accused, 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
20.07.2020

State Vs. Unknown (through applicant Jatinder Kumar Dudani).

FIR No. 137/2020

PS Rajender Nagar

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

20.07.2020

Present: Sh. Vakil Ahmad Ld. APP for State (through VCC over Cisco Webex)

Applicant Sh. Jatinder Kumar Dudani (through VCC over Cisco Webex)

IO/ASI Daryao Singh (through VCC over Cisco Webex)

Matter is heard through VCC over CISCO Webex Application at 1:03 PM.

The present urgent application was filed on behalf of the applicant on email id of this court on 18.07.2020. Same is taken up for hearing through VCC in view of Circular No. 6797-6899/CMM/Central/DR/2020 dated 29.06.2020.

Scanned copy of report under the signatures of ASI Darayo Singh is received through email of this court. Copy of same already stands supplied to applicant, electronically.

Report perused.

IO/ASI Daryao Singh submits that the case property i.e bangles in question, does not bear any unique identification, therefore the application for its TIP has already been moved before concerned Ld. Duty MM and same is now fixed for 22.07.2020.

*In view of above submissions, the present application be listed for **consideration through VCC over Cisco Webex on 23.07.2020 at 1:00 PM.***

Meanwhile IO/ASI Daryao Singh is directed to file fresh report through email on 23.07.2020 by 10:00 AM. The applicant is also directed to furnish the copy of authority letter/SPA given to him by his mother (owner of alleged gold bangles) for getting it released, electronically on 23.07.2020 by 10:00 AM.

Scanned copy of this order is being sent to Sh. Manoj Kumar (Assistant Ahlmad) through whatsapp/email for transmitting the same to the applicant and IO electronically, for information and necessary compliance.

Jatinder Kumar
20/07/2020.

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

20.07.2020

Sanjaat Jain Vs. Pahuni Jain

CC No. 12309/2018

PS: Rajender Nagar

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

20.07.2020

Present: Mr. Shri Singh and Mr. Saransh Gupta, Ld. Counsel for Complainant
 (through VCC over Cisco Webex)

Matter is taken up through VCC over Cisco Webex at 2:17 PM.

Matter was fixed for clarifications/orders on application u/s 156(3) Cr.PC.

No clarifications are needed.

This order shall dispose off an application filed U/S 156 (3) Cr.PC., moved by applicant Sanjaat Jain. The allegations leveled by the applicant are that he got married with proposed accused no.1 Pahuni Jain in the year 2015. At the time of marriage, the applicant was working as a technical specialist and a high performance engine design consultant. Allegedly, after solemnization of their marriage, the applicant and proposed no.1, moved to Burmingham, UK in September, 2016. At that time, the applicant was having a number of expensive household articles including electronic devices such as laptops, I-pads, personal jewellery etc. valuing more than Rs. 15 lacs, which was purchased from personal funds of the applicant. On 14th June, 2017, proposed accused no.1 allegedly filed a false complaint regarding domestic abuse against the applicant which led to his arrest by the British police on 16th June, 2017. The said complaint is stated to be withdrawn by the proposed accused no.1 through an undertaking given to British police in September, 2017. It is further alleged that during the time when the applicant was arrested and was unable to return to his apartment due to domestic abuse allegations, the proposed accused no.1 hatched a conspiracy with proposed accused no.2 Rupesh Jain, proposed accused no.3 Sangeeta Jain and proposed accused no.4 Jhunjhun Jain, who respectively, are the father, mother and sister of proposed accused no.1. In furtherance of the alleged conspiracy, proposed accused no.1 left U.K. with the expensive household articles and documents from the residence of applicant on 19th June, 2017. The alleged stolen articles belonging to the applicant have been kept by the proposed accused persons at their residence in Rajender Nagar. It is with these allegations, the applicant has sought registration of FIR


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against all the proposed accused persons for offences u/s 379/380/403/406/410/411/34 /109/120 B IPC.

Ld. Counsel for the applicant has argued that the applicant has also made complaint dated 19.12.2017 to SHO, P.S. Rajinder Nagar and another complaint dated 23.02.2018 to DCP, Central District, but in vain. It is also argued that since the proposed accused persons have wrongfully retained the stolen property of applicant at their residence in Rajender Nagar, therefore, vide applicability of S. 181 (3) and 181 (5) of CrPC., the jurisdiction of this court has been invoked. The counsel for applicant has relied on judgment in case titled as ***Empress v Sunker Gope, 1880 Vol. VI ILR 307 and Lalitha Lakshmanan v CBI (2017) 236 DLT 588.***

In the status report filed by inquiry officer WSI Jaspreet Pannu, it is stated that during inquiry, the applicant could not furnish any documentary proof of ownership over stolen/misappropriated articles nor did he lodge any complaint with U.K. police. It is also stated that the alleged incident has taken place in U.K. and the applicant resides in J & K, hence, no cause of action arose within jurisdiction of P.S. Rajinder Nagar.

During Course of arguments on 06.02.2020, inquiry Officer W/SI Jaspreet Pannu submitted that with regard to same set of allegation another case FIR already stands registered in State of Jammu & Kashmir, on the basis of complaint made by applicant Sanjaat Jain.

This fact however, was clarified by the counsel for applicant on last date i.e 14.07.2020 by submitting the such FIR lodged at Jammu & Kashmir pertains to the theft/misappropriation of other articles by proposed accused no.1, from her matrimonial home at Jammu. Copy of FIR No.0146/2017 u/s 380/504/506 Ranbir Penal Code at Channi Himat, Jammu, was also sent through email pursuant to directions issued on last date and same was perused

Prior to delving into the merits of the present application, let us briefly discussed the position of law pertaining to section 156(3) Cr.P.C.

In Suresh Chand Jain v. State of Madhya Pradesh & Ors. 2001 (1) Supreme Court, Page 129, it was held that;

"7. It is true that Section 156(3) of the Code empowers a Magistrate to direct the police to register a case and initiate investigations but this power has to be exercised judiciously on proper grounds and not in a mechanical manner. In those cases where the allegations are not very serious and the complainant himself is in possession of evidence to prove his allegations there should be no need to pass orders under Section


20/07/2020.

156(3) of the Code. The discretion ought to be exercised after proper application of mind and only in those cases where the Magistrate is of the view that the nature of the allegations is such that the complainant himself may not be in a position to collect and produce evidence before the Court and interests of justice demand that the police should step in to help the complainant. The police assistance can be taken by a Magistrate even Under Section 202(1) of the Code after taking cognizance and proceeding with the complaint under Chapter XV of the Code”

Hon'ble High Court of Delhi in Ravindra Kumar v. State (Govt. of NCT of Delhi) & Anr. 2013 VIII AD (Delhi) 403 held that remedy under section 156(3) of Cr.P.C. is a discretionary one as the provision proceeds with the word 'may'. The Magistrate is required to exercise his mind while doing so and pass orders only if he is satisfied that the information reveals commission of cognizable offence/offences and also about necessity of Police investigation for digging out of evidence which is neither in possession of the complainant nor can be procured without the assistance of police.

In **Skipper Beverages Pvt. Ltd. v. State, 2001 IV AD (Delhi) 625**, it was held that;

“It is true that Section 156(3) of the Code empowers to Magistrate to direct the police to register a case and initiate investigation but this power has to be exercised judiciously on proper grounds and not in a mechanical manner. In those cases where the allegations are not very serious and the complainant himself is a possession of evidence to prove his allegations there should be no need to pass order under Section 156(3) of the Code. This discretion ought to be exercised after proper application of mind and only in those cases where the Magistrate is of the view that the nature of the allegations is such that the complainant himself may not be in a position to collect and produce evidence before the court and interest of justice demand that the police should step in to help the complainant.”

Now advertng to case in hand, in the present case, as per the allegations leveled by applicant, the proposed accused no.1 had left Birmingham U.K with articles belonging to applicant on 19th June, 2017 but the applicant has not given any plausible explanation as to why he had waited for 6 months i.e till 19th December 2017, when he filed his first compliant before SHO PS Rajender Nagar. Besides, the applicant has also failed to bring on record any cogent material establishing his arrest/detention by British Police on 16th June, 2017, which allegedly afforded an opportunity to proposed accused no.1 in wrongful removal of alleged articles to India. The applicant has even not placed on record any cogent and convincing material to prima facie establish the departure of proposed accused no.1 from UK with valuable belongings of the applicant. The record is suggestive of the fact the evidence in present case is not beyond the control and reach of the applicant. Further, no scientific investigation is required to be conducted by the police nor the custodial interrogation of the proposed accused


20/07/2020.

persons is necessitated. The allegations leveled by applicant can be proved by him by placing convincing material on record which is not beyond his reach and as such the present case does not appear to require any probe by the police. In view of the above, there exists no occasion to order the registration of the case FIR u/s 156(3) Cr.P.C. and accordingly the present application is dismissed.

Application is accordingly disposed off.

However, taking the cognizance of the complaint filed u/s 200 Cr.P.C., the complaint is hereby given an opportunity to lead PSE.

Now, list for PSE on **22.09.2020**.

Scanned Copy of this order is being sent to Sh. Manoj Kumar (Assistant Ahlmad) through whatsapp/email for transmitting it to counsel for applicant, electronically and also for uploading 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
20.07.2020

Mohd. Sabir Alam Vs. Farmooda Khatoon

CC NO. 515889/2016

PS I.P Estate

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

20.07.2020

Present: None for Complainant despite intimation

Matter is taken up for hearing through VCC over Cisco Webex.

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

On 18.07.2020, the official on duty namely, Sh. Atma Ram (Ahlmad) had telephonically contacted the Counsel for complainant for taking up the present case through VCC for today. Ld. Counsel for complainant tendered his willingness for advancing the arguments on application u/s 156(3) Cr.PC. through VCC over Cisco Webex.

Hence, *Same is taken up for hearing through VCC in view of Circular No. 6797-6899/CMM/Central/DR/2020 dated 29.06.2020.*

Case record was sent to the residence of undersigned by the official on duty namely Sh. Atma Ram (Ahlmad).

Scanned copy of report under the signatures of Inquiry Officer SI Yogendra Kumar is also received through email. Same is perused.

Today, official on duty Sh. Manoj Kumar (Assistant Ahlmad) has informed the undersigned that Sh. Mohd Harun Counsel for complainant, has shown his inability to join the hearing due to sudden bereavement of his mother in law.

Therefore, no effective hearing could be done in the matter.

Accordingly, ***Put up for purpose fixed on 22.09.2020.***

Meanwhile SI Yogendra Kumar is directed to complete remaining inquiry by the next date.

Copy of this order is being sent to Sh. Manoj Kumar (Assistant Ahlmad) through whatsapp/email for uploading on CIS and for necessary compliance.


20/07/2020.

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
20.07.2020

Gurmeet Kaur Vs. Ajeet Singh

CC No. 2163/19

PS : I. P. Estate

रिषभ कपूर
RISHABH KAPOOR
म.
Metro,
केन्द्रीय जिले,
Central District, Room
तीस हजारी न्यायालय, दिल्ली
Tis Hazari Courts, Delhi

20.07.2020

Present: None for applicant despite intimation.

Matter was fixed for orders on application u/s 156(3) Cr.PC. Today, vide *enbloc* dates given on account of Covid-19 pandemic.

On 18.07.2020 the instructions were given to Sh. Atma Ram (Ahlmad) to contact counsel for applicant and coordinate for scheduling the hearing through VCC over Cisco Webex. Ahlmad has informed that counsel for applicant wishes to advance some additional arguments in the matter.

Today also, the counsel for applicant has requested for adjournment for advancing arguments on certain aspects, upon telephonic contact made by Sh. Manoj Kumar (Assistant Ahlmad) and has not joined the hearing through VCC.

In such circumstances, matter is adjourned for purpose fixed on **27.07.2020 at 2:00 PM through VCC over Cisco Webex.**

Meanwhile, the applicant is at liberty to file additional written submissions, if any through email id of the court i.e mm03centralsitRICT.tishazari@gmail.com by 27.07.2020 at 10:00 AM. It is clarified that failing any additional written submissions filed by applicant within time prescribed, the orders on merits shall be pronounced on application u/s156(3) Cr.PC, as arguments have already concluded on 10.02.2020.

Scanned Copy of this order is being sent to Sh. Manoj Kumar (Assistant Ahlmad) through whatsapp/email for transmitting it to counsel for applicant, electronically and also for uploading 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
20.07.2020

State Vs. Ajay Patwa.

FIR No. 137/2020

PS Rajender Nagar

ऋषभ कपूर
RISHABH KAPOOR
 महानगर दण्डाधिकारी-३
 Metropolitan Magistrate-03
 केन्द्रीय जिला कमरा नं. 150
 Central District, Room No. 150
 तीस हजारी न्यायालय, दिल्ली
 Tis Hazari Courts, Delhi

20.07.2020

Present: Sh. Vakil Ahmad Ld. APP for State (through VCC over Cisco Webex)

Sh. Jitender Kumar Sharma Ld. Counsel for applicant/accused (through VCC over Cisco Webex)

Matter is heard through VCC over CISCO Webex Application at 12:33 PM.

The present urgent application was filed on behalf of the applicant on email id of this court on 18.07.2020. Same is taken up for hearing through VCC in view of Circular No. 6797-6899/CMM/Central/DR/2020 dated 29.06.2020.

Naib Court PS Rajender Nagar has telephonically informed the undersigned that despite attempts, IO/ASI Daryao Singh is unable to join the hearing due to some technical issues at his end.

Scanned copy of reply of under the signatures of IO/ASI Daryo Singh, is received through email id of the court. Copy already stands supplied to counsel for applicant/accused, electronically.

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

It is averred on behalf of applicant/accused that he has been falsely implicated in the present case. It is further averred that the applicant/accused is undergoing custody since 08.06.2020 and no useful purpose shall be served in his further detention. It is further averred that the accused has no involvement in the present case. With these averments, prayer is made for grant of bail to accused.

Ld. APP for the State submits that the accused shall not be released on bail as he is a habitual offender, having previous involvements.

Jitender Kumar Sharma
 20/07/2020

On perusal of the scanned copy of previous conviction/involvement report received along with reply of IO (through email), it emerges that the accused is having previous involvements in certain other cases, involving serious offences. More particularly, the accused has been shown to have complicity in respect of case FIR No. 11514/2020 u/s 379 IPC, Case FIR No. 35/2020 u/s 392/34 IPC both at PS Rajender Nagar, Case FIR No. 484/2016 u/s 392/34 IPC PS Prasad Nagar, case FIR No. 240/2017 u/s 356/379/411/34 IPC PS Punjabi Bagh, case FIR No. 126/2017 u/s 392/34 IPC PS Inder Puri. If that be so, the apprehension of prosecution that if enlarged on bail, he will commit the offences of like nature or will dissuade the material prosecution witnesses, appears to be well justified.

In such circumstances, this court is of the firm view that no ground for grant of bail is made out to the **accused/applicant Ajay Patwa**. Accordingly, the present application deserves dismissal and same is hereby **dismissed**.

Scanned copy of this order is being sent to Sh. Manoj Kumar (Assistant Ahlmad) through whatsapp/email for transmitting the same to the Counsel for applicant/accused, 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
20.07.2020