

रिषभ 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

Raghav Kumar Sharma Vs. State
CC NO. 1993/2019
PS I.P Estate

09.07.2020

Present: Sh. Aditya Aggarwal Ld. Counsel for Complainant (through VCC over Cisco Webex)

Inquiry Officer SI Naveen Kumar (through VCC over Cisco Webex)

Matter is heard through VCC over CISCO Webex Application at 02:06 PM.

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

As per record, the matter was fixed awaiting impending inquiry report and further arguments on application u/s 156(3) Cr.PC.

Yesterday i.e on 08.07.2020, the official on duty namely, Sh. Manoj Kumar (Assistant Ahlmad) telephonically contacted the counsel complainant for taking up the present case through VCC for today. The Counsel for complainant had tendered his willingness for joining the hearing through VCC over Cisco Webex Application.

Ld. Counsel for Complainant was telephonically informed about the scheduled time of hearing through VCC over Cisco Webex, by Sh. Awdhesh Kumar Rai (Reader).

Hence, the matter 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. Awdhesh Kumar Rai (Reader), today.

SI Naveen Kumar has also sent scanned copy of ATR dated 09.07.2020 through email id of this court. Same is perused.

SI Naveen Kumar submits that in compliance of order dated 17.02.2020, the remaining inquiry could not be completed due to non-availability of officials in the office of Asst. Commissioner Income Tax, on account of Covid-19 pandemic situation. It is further stated that upon telephonic contact made with Sh. Satish Jain, Assistant Commissioner I.T, the Inquiry officer was informed that said office is now working with 50 percent official strength.

SI Naveen Kumar submits of having informed by concerned Asst. Commissioner, I.T that the information sought vide notice u/s 91 Cr.PC., would be provided in 10 days.

Some more time is sought for conclusion of inquiry.


09/07/2020.

Ld. Counsel for complainant submits that despite lapse of time period of more than one month from date of last order i.e 17.02.2020 till the occurrence of present pandemic situation i.e last week of March, 2020, the impending inquiry has not moved an inch forward.

In view of above circumstances, SI Naveen Kumar is directed to conclude the impending inquiry by next date. Also, let notice be issued to ACP concerned through all permissible modes including email, directing him to ensure conclusion of impending inquiry and filing report qua same on next date.

Put up for purpose fixed on 10.09.2020.

Scanned copy of this order is being sent to Sh. Awdhesh Kumar Rai (Reader) through whatsapp/email for uploading on CIS and for necessary 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

09.07.2020

State Vs. Amit
FIR No.120/2020
u/s 392/411/34 IPC
PS I.P Estate

09.07.2020

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

Sh. Kiran Pal Singh Ld. Counsel for applicant/accused (through VCC over Cisco Webex)

IO/SI Mohit Asiwali (through VCC over Cisco Webex)

Matter is heard through VCC over CISCO Webex Application at 01:04 PM.

The present urgent application was filed on behalf of the applicant on email id of this court on 08.07.2020. Same is taken up for hearing through VCC in view of Circular No. 6797-6899/CMM/Central/DR/2020 dated 29.06.2020.

In furtherance of directions issued through email dated 06.07.2020, Scanned copy of reply has been sent by IO/SI Mohit Asiwali, through the email id of the court.

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

It is stated that the applicant is innocent and has been falsely implicated in the present case. It is further averred that the custodial interrogation of the applicant/accused is no more required, nor any recovery is left to be effected from him. It is further averred that applicant is sole bread earner of his family having an old and ailing mother to look after. It is further averred that the co-accused has already been admitted on bail, in present case. With these averments prayer is made for enlarging applicant on bail.

In reply filed, the application is opposed citing seriousness of allegations. Hence, prayer is made for dismissal of the present application.

In the present case, the applicant was arrested for the offences u/s 392/411 IPC. As per reply filed by IO/SAI Mohit Asiwali, the recovery of alleged wallet has already been effected from the applicant/accused, in the present case. It is also not disputed that applicant/accused is a first time offender having no previous criminal antecedents. As the recovery of the case property


09/07/2020.

has already been effected from the accused, coupled with the fact that the accused has never been involved in any of the offences, and as such is having clean previous antecedents, therefore, there does not exist any apprehension that if enlarged on bail, he will commit offences of like nature or will dissuade the prosecution witnesses. Besides, in present case, the co-accused namely Bablu has already been admitted on regular bail by this court. Further, the trial of the case would take a long time and till then the liberty of the applicant/accused cannot be curtailed, when his custody is as such not required for the investigation purposes. Even otherwise also, the presence of the accused during the course of remaining investigation, if any, as well as during trial 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 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 prosecution, appears to be untenable and as such, there exists no reasonable justification, in not enlarging the applicant/accused, on bail. Accordingly, the **applicant/accused Amit** is hereby ordered to be enlarged on bail, subject to following conditions;

1. That the applicant shall furnish personal and surety bonds in the sum of **sum of Rs.20,000/- each**, to the satisfaction of **Ld. Duty MM (on court duty)**.


09/07/2020.

2. That the applicant shall make himself available as and when required to do so by the investigating agency or the police;
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 prosecution evidence nor he will try to win over the prosecution 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 investigation and 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.

The application is accordingly disposed of.

Scanned copy of this order is being sent to Sh. Awdhesh Kumar Rai (Reader) through whatsapp/email for transmitting the same to the Ld. Counsel for applicant and also for sending it to concerned Jail Superintendent through all permissible modes including email at daksection.tihar@gov.in , for necessary information and 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

09.07.2020