

FIR No. 137/20
State Vs. Mohd. Abid
PS I.P.Estate
17.10.2020

(Matter has been physically heard)

Case taken up in view of circular no. 992/30066-30235 DJ(HQ)/ Covid-19 Lockdown/Physical Courts Roster/2020 dt. 25.09.2020 issued by Ld. District & Sessions Judge (HQ).

Present: Ld. APP for the State.

Sh. N.K. Saraswat, Ld. LAC for accused (joined through VC).

SI Narender Kumar on behalf of IO/SI Pratap Singh.

Heard. Record perused.

The present application was filed through email. Scanned copy of reply under the signatures of IO/SI Pratap Singh is received through email. Copy stands supplied to LAC for applicant, electronically.

Heard. Record perused.

As per the report filed by the IO, during the course of investigation no recovery was effected from accused. Therefore, the accused was released in the present case vide order dt. 13.08.2020. Copy of order dt. 13.08.2020 passed by Ms. Jyoti Maheshwari, Ld. Duty MM is also perused. The perusal of same would reveal that the accused Mohd. Abid has already been ordered to be released in present case FIR, for want of incriminating evidence against him.

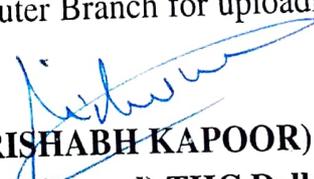
At this stage, Ld. LAC for applicant submits that he wishes to withdraw the present application.

In view of the submissions made by Ld. LAC for applicant, the present application stands dismissed as withdrawn. Application is disposed off.

Copy of this order be sent to Ld. LAC for applicant/accused through email.

One copy of this order be also sent to concerned Jail Superintendent through all permissible modes including email at daksection.tihar@gov.in.

One copy of this order be sent to Computer Branch for uploading on Delhi District Courts website.


(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
17.10.2020

FIR No. 193/20
State Vs. Pradeep Kumar (through applicant Sanjay Kumar)
PS I.P. Estate

17.10.2020

(Matter has been physically heard)

Case taken up in view of circular no. 992/30066-30235 DJ(HQ)/ Covid-19 Lockdown/Physical Courts Roster/2020 dt. 25.09.2020 issued by Ld. District & Sessions Judge (HQ).

Present: Ld. APP for the State.

Applicant Sanjay Kumar with Sh. Rishabh Gulati, Ld. Counsel.

IO/SI Narender Beniwal in person.

Pursuant to directions issued on 14.10.2020, IO has filed fresh reply through email. Copy stands supplied to counsel for applicant, electronically.

Upon query made by the Court, applicant submits that the present application has been filed under his instructions for release of the vehicle no. DL 1RZ 6110 on superdari. He further submits that the vehicle in question was pledged with M/s Kapil Auto Sales for a loan advanced in favour of applicant.

Status report filed by the IO today is also perused.

As per the status report the applicant has sold the vehicle to accused Pradeep Kumar through dealer, namely, Kapil Auto Sales and the photocopy of the documents of the ownership chain were obtained from Kapil Auto Sales.

IO further submits that the RC of the vehicle in question has already been verified and same is registered in the name of applicant Sanjay Kumar. IO has further reported that the investigation qua the vehicle is complete in all respects and same may be released to rightful owner applicant Sanjay, on superdari.

Copy of RC of vehicle is also perused. The perusal of same would reveal that applicant Sanjay Kumar is registered owner of the vehicle in question. Further, for the purposes of identity, the applicant has also filed scanned copy of his Driving License and Adhar Card.

On perusal of the report of IO and documents appended with the application, the applicant Sanjay Kumar prima facie appears to be the person entitled for custody of vehicle in question and same is no more required for purposes of investigation.

In these circumstances and as per directions of *Hon'ble High Court*

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of Delhi in matter of “Manjit Singh Vs. State” in CrI. M.C. No.4485/2013 dated 10.09.2014, the aforesaid vehicle be released to the applicant / registered owner subject to the following conditions:-

1. Vehicle in question be released to applicant/registered owner only subject to furnishing of indemnity bonds as per the valuation of the vehicle, to the satisfaction of the concerned SHO/ IO subject to verification of documents.
2. IO shall prepare detailed panchnama mentioning the colour, Engine number, Chasis number, ownership and other necessary details of the vehicle.
3. IO shall take the colour photographs of the vehicle from different angles and also of the engine number and the chasis number of the vehicle.
4. The photographs should be attested and counter signed by the complainant/applicant and accused.
5. IO is directed to verify the RC and insurance of the vehicle in question and release the vehicle after getting it insured by the applicant if the same is not already insured.

Before parting with this order, it is pertinent to be observed that in the earlier reply dt. 14.10.2020, IO has stated that the applicant had sold the vehicle in question to M/s Kapil Auto Sales on account of some emergency. Whereas, in the reply dt. 17.10.2020 received today, IO has stated that during investigation it was found that the applicant has sold vehicle in question to accused through dealer, namely, Kapil Auto Sales and all its documents are with Kapil Auto Sales. However, upon query made by the Court today, applicant has stated that he has rather pledged the vehicle with Kapil Auto Sales for a loan advanced in his favour.

These contradictory versions clearly points that the investigation of the case is not moving in the right direction and a thorough probe is required qua ascertaining the role of applicant as well as the Kapil Auto Sales in the alleged offences. Accordingly, let a notice be issued to DCP concerned to monitor the remaining investigation of

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the case.

Application stands disposed off.

Scanned copy of this order be sent to Counsel for applicant and to DCP/SHO/IO concerned through email.

One copy be sent to Computer Branch, THC for uploading on Delhi District Court Website.


(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
17.10.2020

FIR No. 168/20

PS Rajinder Nagar

State Vs. HR 39E 2850 (through applicant Pawan Lohchab)

17.10.2020

(Matter has been physically heard)

Case taken up in view of circular no. 992/30066-30235 DJ(HQ)/ Covid-19 Lockdown/Physical Courts Roster/2020 dt. 25.09.2020 issued by Ld. District & Sessions Judge (HQ).

Present: Ld. APP for the State.

Applicant with Sh. R.K. Swami, Ld. Counsel.

IO/SI Rajvir Singh in person.

Pursuant to directions issued on 14.10.2020, IO has filed fresh reply under his signatures. Copy stands supplied to counsel for applicant.

Heard. Record perused.

This order shall dispose off application for release of vehicle HR 39E 2850, moved on behalf of applicant Pawan Lohchab.

In reply received under the signatures of IO/SI Rajvir Singh, it has been stated that the vehicle bearing no. HR 39E 2850 has been recovered in connection with the present case FIR and same is registered in the name of registered owner Sh. Mandeep Kumar. IO has stated that the investigation qua the vehicle is complete and he has no objection, if same is released on superdari.

Counsel for applicant submits that applicant is the SPA of registered owner Sh. Mandeep Kumar and has also placed on record the original SPA executed in applicant favour by the registered owner of the vehicle.

The applicant has filed the scanned copy of RC of vehicle and copy of his Adhar Card for the purposes of identity.

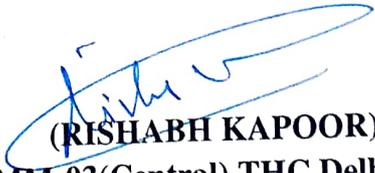
On perusal of the report of IO and documents appended with the application, the applicant Pawan Lohchab being the SPA of registered owner Mandeep Kumar prima facie appears to be the person entitled for custody of vehicle in question. Besides, the investigation qua vehicle has also been completed and no useful purpose shall be served in keeping the same in police custody.

In these circumstances and as per directions of *Hon'ble High Court of Delhi* in matter of "*Manjit Singh Vs. State*" in Crl. M.C. No.4485/2013 dated 10.09.2014, the aforesaid vehicle be released to the applicant / registered owner


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subject to the following conditions:-

1. Vehicle in question be released to applicant/registered owner only subject to furnishing of indemnity bonds as per the valuation of the vehicle, to the satisfaction of the concerned SHO/ IO subject to verification of documents.
 2. IO shall verify the SPA issued in applicant's favour by the registered owner, namely, Mandeep Kumar and shall release the vehicle to applicant only upon such verification.
 3. IO shall prepare detailed panchnama mentioning the colour, Engine number, Chasis number, ownership and other necessary details of the vehicle.
 4. IO shall take the colour photographs of the vehicle from different angles and also of the engine number and the chasis number of the vehicle.
 5. The photographs should be attested and counter signed by the complainant/applicant and accused.
 6. IO is directed to verify the RC and insurance of the vehicle in question and release the vehicle after getting it insured by the applicant if the same is not already insured.
- Scanned copy of this order be sent to Counsel for applicant and to IO/SHO concerned through email.
- One copy be sent to Computer Branch, THC for uploading on Delhi District Court Website.


(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
17.10.2020

FIR No. 468/15
PS Rajinder Nagar
State vs. Sanjay Bhati & Ors.

17.10.2020

(Matter has been physically heard)

Case taken up in view of circular no. 992/30066-30235 DJ(HQ)/ Covid-19 Lockdown/Physical Courts Roster/2020 dt. 25.09.2020 issued by Ld. District & Sessions Judge (HQ).

Present: Ld. APP for the State.

SI Vinod Kumar on behalf of IO/SI Mahipal Singh with case diary.

The present application for issuance of NBWs against the accused namely Sanjay Bhati, Satpal Yadav and Jai Karan was moved by IO, through email.

SI Vinod Kumar submits that the accused persons are intentionally evading and are absconding to avoid their arrest. It is further submitted that during the course of investigation, search/raids were conducted at the residences of the accused Satpal Yadav at Village Rasulpur, Nawada, Sector-63, NOIDA, U.P., accused Sanjay Bhati at Village Dairy Sconner, Dadari, Dist. J.B. Nagar, U.P. and accused Jai Karan at Village Kudi Kheda, Dadri Dist. Gautam Budh Nagar, U.P.

SI Vinod Kumar further submits on behalf of IO that the accused persons, namely, Satpal Yadav and Sanjay Bhati had also applied for anticipatory bail before the Ld. Sessions Court and same was also dismissed. Copy of orders dated 19.12.2019 passed by Court of Sh. Satish Kumar, Ld. ASJ are perused. The perusal of same would reveal that the anticipatory bail application of accused Satpal Yadav and Sanjay Bhati have been dismissed.

SI Vinod Kumar further submits that the local police is not co-operating with the investigating agency, therefore, the NBWs are required for apprehending the accused persons.

Upon specific query made by the Court, SI Vinod Kumar submits that there is no stay on arrest of accused persons in any Court of Law nor any anticipatory or regular bail application of accused persons is pending in any Court of Law.

Submission heard. File perused.

In view of the submissions made on behalf of IO and also keeping in

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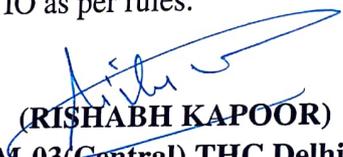
view the fact that the investigation of the case has to be brought to a logical end, which certainly cannot take place in absence of the absconding accused persons, accordingly, this Court is of the considered view that accused persons are deliberately avoiding the process of law & their presence cannot be secured without issuing of coercive process.

In these circumstances, NBWs be issued against the accused persons, namely, Satpal Yadav S/o Sh. Jai Chand, Sanjay Bhati S/o Sh. Jaspal Singh and Jai Karan S/o Late Nathu Ram through IO / SHO concerned for 18.11.2020.

It is needless to state that IO is at the liberty to cause the production of the accused persons before the court within the statutory period prescribed under law, in the event they are nabbed by him prior to the date fixed.

Application disposed off accordingly.

Copy of this order be given dasti to IO as per rules.


(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
17.10.2020

FIR No. 207/20
State vs. Pawan Chaudhary @ Pawan Kumar
PS I.P. Estate

17.10.2020

(Matter has been physically heard)

Case taken up in view of circular no. 992/30066-30235 DJ(HQ)/ Covid-19 Lockdown/Physical Courts Roster/2020 dt. 25.09.2020 issued by Ld. District & Sessions Judge (HQ).

Present: Ld. APP for the State.

Ms. Babita Ahlawat, Ld. counsel for applicant/accused (joined through VC).

Sh. Devender Kumar, Ld. Counsel for complainant (joined through VC).

IO/SI Naveen Kumar in person(joined through VC).

Pursuant to directions issued on 15.10.2020, fresh reply under the signatures of IO/SI Naveen Kumar is received through email. Copy of same is already supplied to counsel of applicant/accused, through email.

Heard. Record perused.

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

It is stated that the applicant is innocent and has been falsely implicated in the present case. It is further averred that the present FIR has been registered as a counter blast to the complaint made by the wife of applicant against one Pankaj Mehra who had threatened her for implication in false cases including threats of rape. It is further averred that the applicant/accused is the permanent residence of Dehi and is having no previous involvements. With these averments prayer is made for enlarging applicant on bail.

Counsel for applicant submits that the alleged recovery has already been effected from the applicant/accused and as such his custody is no more required by the police. It is further submitted that the applicant is having the dependent family to look after, therefore, he be enlarged on bail.

Ld. APP for State has opposed the present application citing seriousness of allegations and made a prayer for dismissal of the present application.

IO submits that the investigation of the case is at an initial stage and co-


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accused Sant. Madhu (wife of applicant/accused) is yet to be interrogated/arrested. IO further submits that the statement of the victim u/s 164 Cr.P.C. has already been recorded on 16.10.2020.

Counsel for applicant/accused further submits that the co-accused Madhu could not join the investigation as she is suffering from cough, cold and fever and has been advised for Covid-19 test. It is further submitted that the intimation of this fact has already been given to IO and the copy of the medical prescription qua the illness of co-accused Madhu has also been sent to Court email id, for the perusal of this Court.

In the present case, the applicant was arrested for the offences u/s 302/354/354D/509/506/323/34 IPC. It is undisputed that applicant/accused is the first time offender having no previous criminal antecedents. The fact that no recovery is left to be effected from the possession of applicant/accused is also not disputed by the investigating agency. Even though, the IO has opposed the present application citing an apprehension regarding threat to complainant/victim and witnesses as well as the likelihood of commission of similar offences by the applicant/accused. However, such apprehensions of IO are not supported with any cogent material on record. The perusal of the previous conviction/involvement report of accused rules out that he is the first time offender and is having clean previous antecedents. Therefore, the submissions of IO qua the proposed threat to the victim/witnesses and likelihood of repetition of similar offences by the accused, in case of his enlargement on bail, appears to be misplaced. Admittedly, applicant is the permanent resident of Delhi and is having sufficient roots in the society. Further, the trial of the case will take a long time and till then the liberty of the 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

Justice Chelameswar

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 disapproval 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 accused/applicant Pawan Chaudhary @ Pawan Kumar 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)*.
- 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

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may tend to delay the investigation and trial of the case.

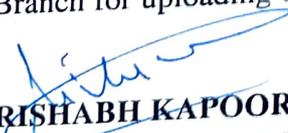
6) That the applicant shall not leave the territories of India during the pendency of present case proceedings except with the permission of the court.

The application is accordingly disposed off.

Scanned copy of this order be sent to the Ld. Counsel for applicant through email.

One copy be also sent 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
17.10.2020