

BAIL APPLICATION No.: 1260/2020

State v. Chandan
FIR No. : 0029/2020
PS: DBG Road
U/S: 392,397,307,120B,34 IPC

18.09.2020

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC
Sh. Rahul Tyagi, Ld. Counsel for accused Chandan.

Put up for reply, arguments and appropriate orders for 24.09.2020.

In the meanwhile, counsel is at liberty to submit additional documents through electronic mode including copy of chargesheet.

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(Naveen Kumar Kashyap)
ASJ-04/Central/18.09.202

Bail Matter No.: 1271/2020
FIR No:366/2020
PS:Kotwali
State v Anand Singh
U/s : 380, 457 IPC

18.09.2020

Present: Mr. Pawan Kumar, learned Addl.PP for State through VC.
Mr. Subhash Chauhan, learned counsel for applicant through VC.

Reply filed by the IO. Copy of the same be supplied to the learned counsel for the applicant / accused through electronic mode.

Put up for arguments, appropriate orders for **24/09/2020**.

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(Naveen Kumar Kashyap)
ASJ-04/Central/18.09.2020

Bail Matter No.: 1122/2020
FIR No:200/2020
PS:Pahar Ganj
State v. Shiv Kumar s/o Jagdish
U/s : 308, 34 IPC

18.09.2020

Present: Mr. Pawan Kumar, learned Addl.PP for State through VC.
Mr. Naveen Kumar Gaur, learned counsel for applicant through VC.
Mr. Manoj Sharma, learned counsel for complainant alongwith complainant
Maan Singh Meena and Lokesh Meena present through VC.

Further documents / CCTV footage, photographs filed through e-mail. Further,
both the sides seek sometime to file further CCTV footage. They are at liberty to do so before
lunch time by tomorrow.

Put up for orders / clarification on **19/09/2020 at 2:30 PM.**

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(Naveen Kumar Kashyap)
ASJ-04/Central/18.09.2020

Bail Matter No.: 1223/2020

FIR No:200/2020

PS:Pahar Ganj

State v. Shalu Chauhan s/o Rambir Chauhan

U/s : 308, 34 IPC

18.09.2020

Present: Mr. Pawan Kumar, learned Addl.PP for State through VC.

Mr. Arvinder Kumar Mishra, learned counsel for applicant through VC.

Mr. Manoj Sharma, learned counsel for complainant alongwith complainant Maan Singh Meena and Lokesh Meena present through VC.

Further documents / CCTV footage, photographs filed through e-mail. Further, both the sides seek sometime to file further CCTV footage. They are at liberty to do so before lunch time by tomorrow.

Put up for orders / clarification on **19/09/2020 at 2:30 PM.**

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(Naveen Kumar Kashyap)
ASJ-04/Central/18.09.2020

Application No. 1120/2020
State Vs Faizan Parvez s/o Humayun Parvez
FIR : Not Known
PS : Sadar Bazar
Police Chowki: Nawab Road
U/s: Nont known

18.09.2020

Present: Mr. Pawan Kumar, learned Addl.PP for State through VC.
Mr. Sanjay Sharma, learned counsel for applicant through VC.
SHO PS Sadar Bazar is also present through VC.

Clarification given by SHO concerned that no FIR is registered so far, but inquiry by the SDM was conducted. It is further stated that police official has called applicant Faizan Parvez in relation to the matter in question.

Further today certain documents / statement of victim Ms. Tabinda who has made her statement before Executive Magistrate, Kotwali is also filed by SHO concerned.

Under these circumstances, before proceeding further, let notice be issued to such Tabinda through such SHO, PS Sadar Bazar to appear through VC on the next date of hearing.

It is made clear that such Tabinda is at liberty to appear or not and state her choice on the next date of hearing.

In the meanwhile, under these circumstances, SHO concerned is directed to take no coercive action against the applicant till the next date of hearing only.

Put up for further arguments, / orders for **25/09/2020**.

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(Naveen Kumar Kashyap)
ASJ-04/Central/18.09.2020

Application No.1189/2020
State Vs Pramod Kumar s/o Raj Kumar Goel
FIR : Not Known
PS : Chandni Chowk

18.09.2020

Present: Mr. Pawan Kumar, learned Addl.PP for State through VC.

Learned counsel for applicant through VC.

SHO Ritu Raj PS Chandni Chowk with ASI Veer Pal present through VC.

Further, arguments in detail heard.

In the meanwhile, under these circumstances, SHO concerned is directed to take no coercive action against the applicant till the next date of hearing only.

Put up for orders for **25/09/2020**.

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(Naveen Kumar Kashyap)
ASJ-04/Central/18.09.2020

Interim Bail Application

**State Vs. Kishan & others
(Application of Arjun)
FIR No.: 205/2018
PS: Lahori Gate
U/s: 307 IPC**

18.09.2020

This court is also discharging Bail Roster duty till further orders.

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

Reply not filed in terms of previous order. Issue fresh notice to IO in terms of previous order for the next date of hearing. Previous order be complied with afresh.

Put up for reply, arguments and appropriate order for **24/09/2020**.

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**(Naveen Kumar Kashyap)
ASJ-04/Central/18.09.2020**

Bail Application

State Vs. Babloo & others
(Application of Dinesh @ Dhanna)
FIR No.: 251/2019
PS: Sarai Rohilla
U/s: 341, 307, 34 IPC & 25, 54, 59 Arms Act

18.09.2020

This court is also discharging Bail Roster duty till further orders.

Present: Mr. Pawan Kumar, learned Addl.PP for the State through VC.
Mr. Asha Ram Sharma, learned counsel for applicant / accused through VC.

Issue fresh notice to Jail Superintendent concerned to file report regarding present medical condition of the applicant / accused Dinesh @ Dhanna.

Put up for appropriate order / further proceedings for **24/09/2020**.

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(Naveen Kumar Kashyap)
ASJ-04/Central/18.09.2020

SC: 27399/2016
FIR No: 678/2015
PS: Subzi Mandi
State v. Ajay Pal

18.09.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

In view of the above-mentioned orders/directions, file is taken up through Webex.

In the present case, last regular date of hearing was 21.05.2020 and 18.07.2020.

On 18.07.2020, matter was adjourned for 18.09.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing today through VC.

Undersigned is also discharging work of Bail Roster duty.

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

No adverse order is being passed in the interest of justice in the present situation.

Issue P/w of the accused, if any in JC for next date through VC or otherwise as the situation may prevail on next date of hearing.

Put up for purpose fixed/PE in terms of previous order for 14.01.2021.

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(Naveen Kumar Kashyap)
ASJ-04/Central/18.09.2020

SC:204/2019
FIR No: 86/2016
PS: Civil Lines
State v. Shahanawaj @ Shanu

18.09.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

In view of the above-mentioned orders/directions, file is taken up through Webex.

In the present case, last regular date of hearing was 21.05.2020 and 18.07.2020.

On 18.07.2020, matter was adjourned for 18.09.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing today through VC.

Undersigned is also discharging work of Bail Roster duty.

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

No adverse order is being passed in the interest of justice in the present situation.

Issue P/w of the accused, if any in JC for next date through VC or otherwise as the situation may prevail on next date of hearing.

Put up for purpose fixed/PE in terms of previous order for 14.01.2021.

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(Naveen Kumar Kashyap)
ASJ-04/Central/18.09.2020

CC No.: 24/2017
Assistant Director (PMLA) v. Vineet Gupta & Ors.
PS: Enforcement Directorate

18.09.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

In view of the above-mentioned orders/directions, file is taken up through Webex.

In the present case, last regular date of hearing was 25.04.2020,18.06.2020 and 19.08.2020.

On 19.08.2020, matter was adjourned for 18.09.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing today through VC.

Undersigned is also discharging work of Bail Roster duty.

Present: Sh. Atul Tripathi, Ld. Counsel for ED through VC.
IO Sanjeet Kumar Sahu is also present through VC.
Sh. Raj Kumar Arya, Ld. Counsel for accused no.1 Vineet Gupta through VC.
Sh. Manish Shukla, Ld. Counsle for accused no. 8 Mohit Garg.
Sh. Mukesh Kumar, Ld. Counsel for accused no.9.
Ms. Sapna Chauhan, Ld. Counsel for accused no. 12 Prateek Bansal.
Sh. Mukesh Kumar, Ld. Counsel for accused no. 13.
Sh. Awnish Kumar and Sh. R.K. Thakur, Ld. Counsels for accused no. 14 Anirudh.
Sh. Shashank Singh and Sh. Arjun Minocha, Ld. Counsels for accused no. 16 to 19.

In this case, it is stated by ED side that they have not still received the details from concerned FSL and more time is sought by FSL.

As such, at request, put up for supplying of remaining documents/CD detail and further appropriate orders on 09.10.2020.

Further under these circumstances , no coercive action is taken against the accused who are not present today.

at this stage it is pointed out by Sh. R.K. Thakur, learned counsel for accused no.14 Anirudh Aggarwal that their application u/s 91 Cr.P.C. is pending and in the meanwhile that be taken up because that is also related to supply of certain documents/non addition of

those documents in the chargesheet.

As such, put up for reply by ED to said application u/s 91 Cr.P.C. of accused no. 14 with advance copy to such counsel for accused and arguments separately on 08.10.2020.

It is made clear that on 08.10.2020 only arguments on such application will be heard.

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ASJ-04/Central/18.09.2020

SC: 287/2019
State v. Sanjay Tiwari & Ors.

18.09.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

In view of the above-mentioned orders/directions, file is taken up through Webex.

In the present case, last regular date of hearing was 28.03.2020,20.04.2020,11.06.2020,11.08.2020 and 28.08.2020.

On 28.08.2020, matter was adjourned for 18.09.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing today through VC.

Undersigned is also discharging work of Bail Roster duty.

Present: Mr. Pawan Kumar, learned Addl.PP for State through VC.
Sh. Avdhesh Kumar Singh, Ld. Counsel for accused alongwith accused
Ms. Khushboo Tiwari through VC.

At request, put up for purpose fixed for physical hearing tomorrow i.e.

19.09.2020.

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ASJ-04/Central/18.09.2020

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Bail Application

**Bail Application No.: 1163/2020
State Vs. Nitish @ Nonu
FIR No.: 21/2020
PS: Sadar Bazar
U/S: 323, 451, 304, 34 IPC**

18/09/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State
through VC

Arguments already heard. Further clarification already given. It is clarified that at present accused is pressing for regular bail itself. Accordingly, vide this order, the regular bail application dated 09/09/2020 under section 439 Cr.P.C. on behalf of accused 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

Bail Application No.: 1163/2020
State Vs. Nitish @ Nonu
FIR No.: 21/2020
PS: Sadar Bazar
U/S: 323, 451, 304, 34 IPC

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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

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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

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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

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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.

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In the present case, it is submitted on behalf of the accused that he is in JC since 21/02/2020; that present FIR is got registered by the complainant, as a counter blast just to compromise the other matter. That chargesheet is already filed. That such accused has no previous involvement in similar matters. That he has roots in the society. That no recovery is affected from the accused. He is the sole bread earner of his family and his mother is suffering from serious ailment. That he will be available for trial and will not misuse his liberty. That there is spread of corona pandemic. That there are directions by hon'ble High Court for taking a lenient view. As such, it is prayed that he be granted regular bail.

On the other hand, it is stated in the reply filed by Inspector Pawan Kumar, as also argued by the learned Addl.PP for the state that there are serious and specific allegations against the present accused; on 21/02/2020, present accused alongwith co-accused entered in the house of complainant Jail Prakash who is the son of deceased and they assaulted the complainant side and they were rescued by the neighbor. That after sometime present accused alongwith other accused started assaulting the complainant side with leg and fist resulting into injury to the family members of complainant and father of complainant died as a result thereof. That such accused surrendered on 17/03/2020 before court. That co-accused Sagar could not be traced so far. It is stated that accused actively participated in the commission of offence. That he may influence or threaten the complainant. That bail application of co-accused Sanjay is pending before the Hon'ble High Court. As such, it is prayed that present application be dismissed.

I have heard both the sides and gone through the record. It is rightly pointed out by the learned Addl. PP for the State

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that offence is serious in nature. The stage of examining the material witnesses has not come. As such, public witnesses are yet to be examined. As such, having regard to the nature of offence, stage of trial and the role of the present accused and material against the present accused, this court is not inclined to grant regular bail to accused at this stage. **With these observations present bail application is disposed of as dismissed.**

Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Copy of this order be sent to Superintendent concerned. Further, copy of order be uploaded on the website. Further a copy of this order be sent to SHO / IO concerned.

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**(Naveen Kumar Kashyap)
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18/09/2020**