

07.09.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of circular no. 23456-23616 DJ(HQ)/ Covid-19
Lockdown/Physical Courts Roster/2020 dt. 30.08.2020 directions issued by Ld.
District & Sessions Judge (HQ).

Present: Ld. APP for the State.

None for applicant.

Pursuant to directions issued on 05.09.2020, scanned copy of status report under the signatures of Dy. Superintendent Central Jail No.4, Tihar is received. Copy stands supplied to counsel for applicant, electronically.

Status report perused.

As per the status report, applicant/accused Aljubair was facing trial in multiple cases. It is further stated in the report that the release order of accused in present case FIR was received on 24.07.2020. However, he could not be released from jail due to pendency of case FIR No. 10584/2016 u/s 379/411 IPC, PS Janak Puri. It is further reported that release order of the accused in this case FIR (at PS Jagat puri), was received on 03.09.2020 and he was released from jail on 04.09.2020.

In such circumstances, since as per the report received from jail, the accused has already been released from custody, therefore, the present application stands dismissed as infructuous.

Application is accordingly disposed off.

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

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

**RISHABH
KAPOOR**

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by RISHABH
KAPOOR
Date:
2020.09.07
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+0530

(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
07.09.2020

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(Through Video Conferencing over Cisco Webex Meeting)
Case taken up in view of circular no. 23456-23616 DJ(HQ)/ Covid-19
Lockdown/Physical Courts Roster/2020 dt. 30.08.2020 directions issued by Ld.
District & Sessions Judge (HQ).

Present: Ld. APP for the State.
Sh. N.K. Saraswat, Ld. LAC for applicant/accused.
IO/ASI Jaiveer Singh in person

The present urgent application was filed on behalf of the applicant on email id of this court.

Scanned copy of reply of under the signatures of IO/ASI Jaiveer Singh, is received through email id of the court. Copy of same is already supplied to LAC for applicant/accused, through email.

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

It is averred on behalf of accused/applicant that he has been falsely implicated in the present case. It is further averred that the recovery effected from the accused is planted one. It is further averred that the father of accused has unexpectedly passed away on 27.07.2020 and after death of his father, the family of applicant is dependent upon him. It is further averred that the applicant has two minor children to look after. 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 previous conviction/involvement report appended in the record, 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.53/2014 u/s 454/380/411/34 IPC and u/s 103 NDPS Act

(convicted and released on period of imprisonment undergone), FIR No. 006/2014 u/s 379, FIR No. 0024/2014 u/s 379, FIR No. 0031/2014 u/s 379 all at PS Rajinder Nagar, FIR No. 297/2015 u/s 392/34 IPC, PS Begumpur, FIR No. 126/2017 u/s 392/411/34 IPC, PS Inderpuri. 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. Accordingly, the present application deserves dismissal and same is hereby dismissed.

The application is accordingly disposed off.

Scanned copy of this order be sent to the Ld. LAC for applicant through email. One copy be also sent to IO/SHO concerned, through email, for necessary information. Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.

**RISHABH
KAPOOR**

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Date:
2020.09.07
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(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
07.09.2020

e-FIR No.35684/19
State Vs. Rahul @ Aryan
PS Rajinder Nagar

07.09.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of circular no. 23456-23616 DJ(HQ)/ Covid-19 Lockdown/Physical Courts Roster/2020 dt. 30.08.2020 directions issued by Ld. District & Sessions Judge (HQ).

Present: Ld. APP for the State.

Sh.N.K. Saraswat, Ld. LAC for applicant/accused.

IO/ASI Vijay Kumar in person

The present urgent application was filed on behalf of the applicant on email id of this court.

Scanned copy of reply of under the signatures of IO/ASI Vijay Kumar, is received through email id of the court. Copy of same is already supplied to Ld. LAC for applicant/accused, through email.

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

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 undergoing custody since 15.01.2020 in connection with present case. It is further averred that the case of applicant is not covered in any of the directions given by Honb'le HPC and applicant is seeking regular bail on merits. With these averments prayer is made for enlarging applicant 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.

As per the reply filed by IO, the applicant was arrested in present case on 15.01.2020. It is further stated in the reply that the charge sheet has already been filed in the Court. The perusal of the case record would reveal that the charges u/s 411 IPC have already been framed against accused on 16.03.2020 and now the

matter is pending trial. Admittedly, the custodial interrogation of accused is not required in the present case nor any recovery is left to be effected from him. Admittedly, the chargesheet has been filed and matter is pending trial. 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 the investigation purposes. Further, the accused has been undergoing detention in judicial custody since 29.01.2020. The presence of the accused during the course of trial can be ensured by taking sufficient sureties undertaking to ensure his presence. In these peculiar circumstances and more particularly taking into account the period of custody undergone by the accused, 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) ISCC 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 accused/applicant Rahul @ Aryan 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.10,000/-* each to the satisfaction of *Ld. Duty MM (on court duty)*.
- 2 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;
- 3 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
- 4 That the applicant shall not deliberately and intentionally act in a manner which may tend to delay the investigation and trial of the case.
- 5 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. LAC 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**

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(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
07.09.2020