

**FIR No.355/21
PS Rajouri Garden
u/s 420/188/ 34 IPC &
3/7 Essential Commodities Act
& 3 Epidemic Act
State Vs. Mohit**

02.06.2021

Proceedings through VC

Present: Ld. APP for the state.

Sh. Kaushal Mishra, Ld. Counsel for accused/ applicant.

IO SI Ishwar Singh, Special Staff is present.

This is the second application for grant of bail to accused Mohit, S/o Ram Lalit u/s 437 CrPC.

Reply has been filed by the IO.

It is submitted by counsel for accused that accused has been falsely implicated in the present case. It is further argued that the accused is languishing in custody since 02.05.2021 and it is no longer required to detain the accused in custody as the investigation qua the accused is complete. Ld. Counsel has submitted that the accused/ applicant was found in possession of the oxygen cylinder, as he required the same for the use of his relative and he has not committed any of the offence alleged against him in the FIR. It is further submitted that benefit of bail be granted to the accused on the ground of parity as well, as co-accused Sandeep Kumar has already been admitted to bail and it is further submitted that the accused/ applicant is ready and willing to furnish a sound surety, and is also willing to abide by conditions imposed upon him by the court if admitted to bail.

Per-contra, Ld. APP for the State has submitted that the bail application of the accused should be dismissed as the offence alleged against him is serious in nature.

Upon inquiry, the IO has conceded no further recovery was effected

from the accused and despite investigation, no further chain of black marketing of oxygen cylinders involving the accused persons in the present case was unearthed.

This Court is mindful of the proposition that bail is a rule and jail is an exception. As held by **Hon'ble Supreme Court of India** in the judgment titled **State of Rajasthan, Jaipur vs Balchand @ Baliay 1978 SCR (1) 538**, **“The basic rule is bail, not jail, except-where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the Court.”**

The accused is languishing in custody since 02.05.2021. Recovery has already been effected from the accused. The IO himself has conceded that no further chain of black marketing of oxygen cylinders involving the accused came to light during investigation. The period in which the IO could have obtained the police custody of the accused is admittedly over. The accused has clean antecedents. Reply filed by the IO does not show any cogent ground requiring the pre-trial detention of the accused. Further, the accused is entitled to the benefit of bail on the ground of parity as well. In view of the aforesaid observations as well as the situation arising out of the pandemic, accused **Mohit, S/o Ram Lalit** is admitted to bail on his furnishing personal bond in the sum of Rs. 20,000/- with one surety of the like amount and further subject to the condition that accused shall join the investigation as and when required, shall not commit any other offence of similar nature, shall not contact the complainant/witnesses in any manner and desist from doing anything which may hamper the due process of law. **Bail bond not furnished.** Bail application disposed of accordingly. Copy of the order be sent to Jail Superintendent concerned via official email ID for information.

Let a hard copy of the application, its reply and misc documents be filed on the record within one week of the resumption of regular functioning of the Courts. Further, let a copy of the order be

uploaded on the website of District Courts forthwith.

Dasti.

(Medha Arya)
MM-02 (West)/THC/Delhi
02.06.2021

**FIR No.363/20
PS Rajouri Garden
u/s 379/411 IPC
State Vs. Raju Mishra**

02.06.2021

Proceedings through VC

Present: Ld. APP for the state.

Ms. Neha Jain, Ld. Remand Advocate.

This is an application for grant of interim bail to accused Raju Mishra, S/o Surender Mishra.

Ld. Counsel for the accused/ applicant has submitted that the accused may be admitted to interim bail as he is languishing in custody since 26.06.2020 and his case is squarely covered by the guidelines of the High Power Committee formed by the Hon'ble High Court of Delhi dated 04.05.2021 and 11.05.2021 for the decongestion of jails in view of the recent surge in the cases of covid-19.

Ld. APP for the state has opposed the application on the ground that the offence alleged against the accused is heinous in nature and the accused is a habitual offender.

Heard. Perused. Considered.

The accused is languishing in custody since 26.06.2020. Perusal of the previous involvement report of the accused reveals that he has multiple previous involvements and is a habitual offender. Further, the accused has already been convicted qua FIR no. 437/20, PS Rajouri Garden. The possibility of the accused misusing the liberty of bail cannot be discounted. In view of the numerous previous involvements, the case of the accused cannot be considered for grant of interim bail in view of the revised guidelines constituted by the HPC

dated 11.05.2021. Accordingly, the application for grant of interim bail to accused **Raju Mishra, S/o Surender Mishra** stands dismissed, without prejudice.

(Medha Arya)
MM-02 (West)/THC/Delhi
02.06.2021

**FIR No.363/20
PS Rajouri Garden
u/s 379/411 IPC
State Vs. Raja Babu**

02.06.2021

Proceedings through VC

Present: Ld. APP for the state.

Ms. Neha Jain, Ld. Remand Advocate.

This is an application for grant of interim bail to accused Raja Babu, S/o Sudarshan Patel has been filed.

Ld. Counsel for the accused/ applicant has submitted that the accused may be admitted to interim bail as he is languishing in custody since 26.06.2020 and his case is squarely covered by the guidelines of the High Power Committee formed by the Hon'ble High Court of Delhi dated 04.05.2021 and 11.05.2021 for the decongestion of jails in view of the recent surge in the cases of covid-19.

Ld. APP for the state has opposed the application on the ground that the offence alleged against the accused is heinous in nature and the accused is a habitual offender.

Heard. Perused. Considered.

The accused is languishing in custody since 26.06.2020. Perusal of the previous involvement report of the accused reveals that he has multiple previous involvement and has a habitual offender. Further, the accused has already been convicted qua FIR no. 437/20, PS Rajouri Garden The possibility of the accused misusing the liberty of bail cannot be discounted. In view of the numerous previous involvements, the case of the accused cannot be considered for grant of interim bail in view of the revised guidelines constituted by the HPC

dated 11.05.2021. Accordingly, the application for grant of interim bail to accused **Raja Babu, S/o Sudarshan Patel** stands dismissed without prejudice.

(Medha Arya)
MM-02 (West)/THC/Delhi
02.06.2021

**FIR No.437/20
PS Rajouri Garden
u/s 379/411 IPC
State Vs. Raja Babu**

02.06.2021

Proceedings through VC

Present: Ld. APP for the state.

Ms. Neha Jain, Ld. Remand Advocate.

This is an application for grant of interim bail to accused Raja Babu, S/o Sudarshan Patel.

Perusal of the record reveals that the accused has been convicted vide order dated 15.03.2021. Thereafter, the matter was fixed for compliance of the judgment of Hon'ble High Court of Delhi titled as "Karan Vs. State of NCT of Delhi.

In view of the fact that the applicant has already been convicted, the instant application for grant of bail is dismissed as infructuous.

Needless to say, the applicant is at liberty to move appropriate application for parole before the relevant authorities. Further, in the interest of justice, this court is of the considered opinion that as the applicant has already been convicted but the hearing of the point of sentence could not be concluded on account of suspension of regular functioning of courts, notice may be issued to the Ld. LAC for the convict, Sh. Arun Sehrawat, to expedite the filing of the affidavit of the convict in terms of the order of this court dated 26.03.2021.

Let the notice be returnable for **09.06.2021**. Further, let a copy of this order be sent to the convict through the Jail Superintendent concerned for information. **Ahlmad is directed to put up the case file before the Court on 09.06.2021.**

**(Medha Arya)
MM-02 (West)/THC/Delhi
02.06.2021**

**FIR No. 437/20
PS Rajouri Garden
u/s 379/411 IPC
State Vs. Raju Mishra**

02.06.2021

Proceedings through VC

Present: Ld. APP for the state.

Ms. Neha Jain, Ld. Remand Advocate.

This is an application for grant of interim bail to accused Raju Mishra, S/o Surender Mishra.

Perusal of the record reveals that the accused has been convicted vide order dated 15.03.2021. Thereafter, the matter was fixed for compliance of the judgment of Hon'ble High Court of Delhi titled as "Karan Vs. State of NCT of Delhi.

In view of the fact that the applicant has already been convicted, the instant application for grant of bail is dismissed as infructuous.

Needless to say, the applicant is at liberty to move appropriate application for parole before the relevant authorities. Further, in the interest of justice, this court is of the considered opinion that as the applicant has already been convicted but the hearing of the point of sentence could not be concluded on account of suspension of regular functioning of courts, notice may be issued to the Ld. LAC for the convict, Sh. Arun Sehrawat, to expedite the filing of the affidavit of the convict in terms of the order of this court dated 26.03.2021.

Let the notice be returnable for **09.06.2021**. Further, let a copy of this order be sent to the convict through the Jail Superintendent concerned for information. **Ahlmad is directed to put up the case file before the Court on 09.06.2021.**

**(Medha Arya)
MM-02 (West)/THC/Delhi
02.06.2021**

**FIR No.0379/21
PS Rajouri Garden
u/s 356/379/34 IPC
State Vs. Arjun**

02.06.2021

Proceedings through VC

Present: Ld. APP for the state.

Ms. Neha Jain, Ld. Remand Advocate.

Sh. Gautam Kumar Jaina , Ld. Counsel for accused/ applicant.

This is an application for grant of bail to accused Arjun @ Nepo, S/o Nar Bahadur, u/s 437 CrPC has been filed.

Reply has been filed by the IO. Let a copy thereof be supplied to Ld. Counsel for the accused.

It is submitted by Ld. Counsel for the accused that the accused/ applicant has been falsely implicated in the present case. It is argued that the accused is in custody since 14.05.2021 and no useful purpose shall be served by detaining him in custody for a longer period. It is further submitted that the accused/ applicant is ready and willing to furnish a sound surety, and is also willing to abide by conditions imposed upon him by the court, if admitted to bail.

Per-contra, Ld. APP for the state has submitted that the bail application of the accused should be dismissed as the offence alleged against him is serious in nature.

Heard. Record perused. Considered.

This Court is mindful of the proposition that bail is a rule and jail is an exception. As held by **Hon'ble Supreme Court of India** in the judgment titled **State of Rajasthan, Jaipur vs Balchand @ Baliay 1978 SCR (1) 538**, "The

basic rule is bail, not jail, except-where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the Court.”

The accused is languishing in custody since 14.05.2021. The offence alleged against the accused shows the complete disregard of the accused towards the law and order situation. Reply of the IO shows that the case property has been recovered at the behest of the accused and the accused was correctly identified by the complainant in the Test Identification Proceedings. The accused has committed a heinous offence. Further, another FIR qua similar offences is also pending against the accused, pertaining to PS Hari Nagar. The possibility of the accused committing another offence cannot be discounted or otherwise thwarting the process of law and misusing the liberty of bail granted to him cannot be discounted. In view of these observations and keeping in mind the gravity of offence, the application for grant of bail to accused Arjun @ Nepo, S/o Nar Bahadur stands dismissed at this stage, without prejudice.

At this stage, Ld. Counsel for the accused has submitted that his prayer for grant of interim bail to the accused may be considered, as the case of the accused is squarely covered within the guidelines of HPC.

Ld. Counsel has the accused has rightly argued that the case of the accused falls within one of the categories who may be considered for grant of interim bail as per the HPC guidelines. However, in view of the gravity of offence alleged the accused, as well as the fact that the accused was identified by the complainant in the TIP proceedings, this court is not inclined to take a favourable view in favour of the accused for grant of interim bail either. The prayer for grant of interim bail is also accordingly rejected. Accordingly, application for grant of interim bail **Arjun @ Nepo, S/o Nar Bahadur** stands dismissed without prejudice. Dasti.

(Medha Arya)
MM-02 (West)/THC/Delhi
02.06.2021

**FIR No.355/21
PS Rajouri Garden
u/s 420/188/ 34 IPC &
3/7 Essential Commodities Act
& 3 Epidemic Act
State Vs. Nortan Parik**

02.06.2021

Proceedings through VC

Present: Ld. APP for the state.

Ms. Neha Jain, Ld. Remand Advocate.

Sh. Kaushal Mishra, Ld. Counsel for accused/ applicant.

IO SI Ishwar Singh, Special Staff is present.

This is an application for grant of bail to accused Nortan Parik, S/o Trilok Chand.

Reply has been filed by the IO.

It is submitted by counsel for accused that accused has been falsely implicated in the present case. It is further argued that the accused is languishing in custody since 02.05.2021 and it is no longer required to detain the accused in custody as the investigation qua the accused is complete. It is submitted by the Ld. Counsel for the accused that the accused had no authority to access the resources of the hospital where he worked and it is falsely alleged against him that he used to fill up the oxygen cylinders from the resources of the hospital and sell the same to needy people at exorbitant prices. It is further submitted that benefit of bail be granted to the accused on the ground of parity as well as co-accused Sandeep Kumar has already been admitted to bail and it is further submitted that the accused/ applicant is ready and willing to furnish a sound surety, and is also willing to abide by conditions imposed upon him by the court.

Per-contra, Ld. APP for the state has submitted that the bail application of the accused should be dismissed as the offence alleged against him is serious in nature.

Upon inquiry, the IO has conceded no further recovery was effected from the accused and despite investigation, no further chain of black marketing of oxygen cylinders involving the accused persons in the present case was unearthed.

This Court is mindful of the proposition that bail is a rule and jail is an exception. As held by **Hon'ble Supreme Court of India** in the judgment titled **State of Rajasthan, Jaipur vs Balchand @ Baliay 1978 SCR (1) 538**, **“The basic rule is bail, not jail, except-where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the Court.”**

The accused is languishing in custody since 02.05.2021. Recovery has been already effected from the co-accused. It is alleged against the accused/applicant that he used to fill up the oxygen cylinders from the resources at Konark Hospital, Nangloi, Delhi where he was employed and used to sell the same at exorbitant rates. However, the IO has himself has conceded that no further chain of black marketing of oxygen cylinders involving the accused/applicant was discovered. The period in which the police custody of the accused could have obtained has admittedly lapsed. The reply of the IO does not show any cogent ground meriting the pre-trial custody of the accused. The accused admittedly has clean antecedents. Co-accused has been granted bail. Further, the Superior Courts have directed that steps be taken for decongestion of prisoners in view of the surge in cases on account of the pandemic. Considering the situation arising out of the pandemic as well as the overall circumstance of the case, the accused **Nortan Parik, S/o Trilok Chand** is admitted to bail on his furnishing personal bond in the sum of Rs. 20,000/- with one surety of the like amount and further subject to the condition that accused shall join the

investigation as and when required, shall not commit any other offence of similar nature, shall not contact the complainant/witnesses in any manner and desist from doing anything which may hamper the due process of law. **Bail bond not furnished.** Bail application disposed of accordingly.

Let a hard copy of the application, its reply and misc documents be filed on the record within one week of the resumption of regular functioning of the Courts. Further, let a copy of the order be uploaded on the website of District Courts forthwith.

Copy of the order be sent to Jail Superintendent concerned via official email ID for intimation.

Copy of the order be given *dasti* to Ld. counsel for accused.

(Medha Arya)
MM-02 (West)/THC/Delhi
02.06.2021

**FIR No.266/21
PS Rajouri Garden
u/s 356/379/34 IPC
State Vs. Naveen Kumar @
Keshav**

02.06.2021

Proceedings through VC

Present: Ld. APP for the state.

Ms. Neha Jain, Ld. Remand Advocate.

Sh. Ali Akbar, Ld. Counsel for accused/ applicant.

This is an application for grant of bail to accused Naveen Kumar @ Keshav, S/o Suresh Kumar, us 437 CrPC has been filed.

Reply has been filed by the IO.

It is submitted by counsel for accused that accused has been falsely implicated in the present case. It is further argued that the benefit of bail be granted to the accused and it is further submitted that the accused is ready and willing to furnish a sound surety, and is also willing to abide by conditions imposed upon him by the court.

Ld. APP for the State has argued that the allegations contained in the FIR are serious and the accused should not be enlarged on bail as the possibility of him fleeing from justice cannot be ruled out.

This Court is mindful of the proposition that bail is a rule and jail is an exception. As held by **Hon'ble Supreme Court of India** in the judgment titled **State of Rajasthan, Jaipur vs Balchand @ Baliay 1978 SCR (1) 538**, "**The basic rule is bail, not jail, except-where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and**

the like by the petitioner who seeks enlargement on bail from the Court.”

The accused is languishing in custody since 19.04.2021. Reply of the IO shows that the accused was arrested at the behest of the co-accused but no recovery was effected from the person of the accused. The reply of the IO further shows that the pre-trial detention of the accused is no longer required for the purpose of investigation. Co-accused has already admitted to bail. Further, the accused only has one other previous involvement and has not been convicted qua the same. This Court is of the considered opinion that there has to be a limit to pre-trial detention. Further, the Superior Courts have directed that steps be taken for decongestion of prisoners in view of the surge in cases on account of the pandemic. Considering the situation arising out of the pandemic as well as the overall circumstance of the case, the accused **Naveen Kumar @ Keshav, S/o Suresh Kumar** is admitted to bail on his furnishing personal bond in the sum of Rs. 10,000/- with one surety of the like amount and further subject to the condition that accused shall join the investigation as and when required, shall not commit any other offence of similar nature, shall not contact the complainant/witnesses in any manner and desist from doing anything which may hamper the due process of law. **Bail bond not furnished.**

Bail application disposed of accordingly. Copy of the order be sent to Jail Superintendent **Let a hard copy of the application, its reply and misc documents be filed on the record within one week of the resumption of regular functioning of the Courts. Further, let a copy of the order be uploaded on the website of District Courts forthwith.**

Copy of the order be given *dasti* to Ld. Counsel for accused.

(Medha Arya)
MM-02 (West)/THC/Delhi
02.06.2021

**E FIR No.000655/20
PS Rajouri Garden
u/s 411 IPC
State Vs. Mahender Pal**

02.06.2021

Proceedings through VC

Present: Ld. APP for the state.

Ms. Neha Jain, Ld. Remand Advocate.

Ms. Bhawana, applicant in person.

This is an application for release of mobile phone make Redmi Note-8 on superdari.

IO/ HC Vinod Kumar has filed the reply. As per reply of the IO, he has no objection if the mobile phone i.e. VIVO V-11 is released to the rightful owner.

It is submitted by Ld. APP for the state that the photographs of the mobile phone may be obtained from all the four angles clearly display the IMEI number of the phone. Furthermore, it is submitted that the CDR pertaining to the mobile phone may also be obtained by IO/ SHO so as to prove the presence of the accused at the spot.

Heard. Perused.

Instead of releasing the articles on superdari, I am of the considered view that the article has to be released as per directions of Hon'ble Supreme Court in case titled as Sunder Bhai Ambalal Desai Vs. State of Gujrat, AIR 2003 SC 638. The view of the Hon'ble Supreme Court has been reiterated by Hon'ble Delhi High Court in case titled as Manjit Singh Vs. State in Crl. M.C. No. 4485/2013 dated 10.09.2014 wherein it has been held that

“59. The valuable articles seized by the police may be released to the person, who, in the opinion of the court, is lawfully entitled to claim such as the complainant at whose house theft, robbery or dacoity has taken place, after preparing detailed panchnama of such articles, taking photographs of such articles and a security bond.

60. The photographs of such articles should be attested or countersigned by the complainant, accused as well as by the person to whom the custody is handed over. Whenever necessary, the court may get the jewellery articles valued from a government approved valuer.

61. The actual production of the valuable articles during the trial should not be insisted upon and the photographs along with the panchnama should suffice for the purposes of evidence.”

Considering the facts and circumstances and law laid down by higher courts, articles in question i.e. **mobile phone make Redmi Note-8 as per seizure memo be released to the rightful owner on furnishing security bond of Rs. 5,000/-, and after the ensuring the compliance of the submissions made by Ld. APP for the state.**

IO is directed to get the valuation done of the articles prior to the release the same to the applicant as per directions of Hon'ble Supreme Court.

Panchnama, photographs alongwith the CDR record as well as the valuation report shall be filed at the time of filing police report. Copy of this order be given dasti to applicant.

**(Medha Arya)
MM-02 (West)/THC/Delhi
02.06.2021**

**FIR No.192/21
PS Rajouri Garden
u/s 302/307/323/341/147/149
State Vs. Punit @ Ors.**

02.06.2021

Proceedings through VC

Fresh charge sheet has been filed. It be checked and registered as per rules.

Present: Ld. APP for the state.

IO/ Inspector Yashpal Singh is present.

Accused Punit, Nitin, Gaurav, Deepak, Amit @ Kaju, Suman @ Summi, ,Tarun, Ravinder Kumar, Priyanka, Deepa and Anita are stated to be in JC but not produced.

Cognizance of the offence is hereby taken.

Notice be issued to the Jail Superintendent concerned for production of accused persons through VC on 16.06.2021.

**(Medha Arya)
MM-02 (West)/THC/Delhi
02.06.2021**