

Bail Application No. 1377/2020
FIR No.: 195/20
PS : Kashmiri Gate
U/s : 147/148/149/307/427/506/440/452 IPC & 25/27/54/59 Arms Act
State Vs Akash @ Arav

06.10.2020

This is an application u/s 439 Cr.PC seeking regular bail, moved on behalf of applicant/accused.

Present: Sh. Balbir Singh, Id. Addl. PP for the State.
IO SI Satender Singh is also present.
Sh. Aman Goyal, Advocate for applicant / accused.

Matter is taken up through Video Conferencing on account of COVID-19 lockdown.

Reply of bail application filed. Copy thereof supplied to Id. Counsel of applicant electronically.

Arguments on bail application heard. Reply perused.

After referring to the allegations appearing in the FIR, counsel for applicant has argued that the applicant is innocent and has been falsely implicated in this case and he is having clean antecedents. It is further argued that nothing has been recovered either from the possession of the present applicant or at his instance and applicant is in custody since 19.08.2020. It is further argued that co-accused persons namely Chinky Yadav, Devash Gupta, Gaurav Yadav and Chetan Yadav have already been granted bail by Sessions Court on 19.09.2020 and co-accused persons namely Lalu Yadav, Vikas Yadav @ Bona, Ritik Yadav @ Ritik and Jatin Kumr Sharma have already been granted bail by Sessions Court on 29.09.2020 and another co-accused namely Babul has also been granted bail by Sessions Court on 03.10.2020 and therefore, the present applicant also deserves to be released on bail on the ground of parity. It is further argued that the present applicant is young boy aged 20 years old and he is neither named in the FIR nor any specific role has been assigned to him in the commission of alleged crime. It is further submitted that the father of applicant is suffering from Covid-19 and there is no other male member in his family to look after his father. It is, therefore, urged that the bail application may be allowed.

On the other hand, the bail application is opposed by Ld. Addl. PP on the ground that the allegations against the present applicant are grave and serious and also on the ground that he had actively participated in the commission of crime involved in this case. It is further argued that the investigation is still going on in this case and the applicant cannot claim parity with co-accused persons who have been granted bail in this case. It is therefore urged that the bail application may be dismissed.

VIDYA
PRAKASH

Digitally signed
by VIDYA
PRAKASH
Date:
2020.10.06
17:00:45
+0530

Contd...2/

Bail Application No. 1377/2020
FIR No.: 195/20
PS : Kashmiri Gate
U/s : 147/148/149/307/427/506/440/452 IPC & 25/27/54/59 Arms Act
State Vs Akash @ Arav

-2-

It is an admitted fact that the aforesaid co-accused persons have already been granted regular bail by Ld. Predecessor of the Court vide orders dt. 19.09.2020, 29.09.2020 and 03.10.2020. Copies of relevant bail orders of said co-accused have also been produced before the Court during the course of arguments. In the bail orders dt. 19.09.2020 and 29.09.2020, it has been observed by my Ld. Predecessor that on the basis of material on record so far, prima facie it appears that ingredients of offence under section 307 IPC are lacking at present and remaining offences invoked against the accused, are punishable with imprisonment upto seven years.

On query, IO has informed the Court that the present applicant stands on similar footing as that of the aforesaid co-accused persons who have already been granted bail in this case. IO has further informed the Court that the present applicant is not found to be previously involved in any other case and nothing incriminating whatsoever has been recovered either from his possession or at his instance. That being the position in hand, the present applicant also deserves to be released on bail on the ground of parity. Trial is not likely to be completed in near future on account of pandemic situation due to Covid-19 and thus, no useful purpose would be served by keeping the applicant behind the jail.

After considering the overall facts and circumstances of the case including nature of offences charged against the present applicant/ accused and in the light of discussion made herein above, applicant/ accused namely **Akash @ Arav** is admitted to bail subject to furnishing personal bond in the sum of Rs.15,000/- with one surety in the like amount to the satisfaction of Ld. MM/ Ld. Duty MM/ Ld. Link MM and shall be subject to the following conditions:

1. The applicant shall not flee from the justice;
2. The applicant shall not tamper with the evidence;
3. During the period of bail, the accused/ applicant shall not try to contact threaten or influence, directly or indirectly, either the victim or any other witness of the present case;
4. The applicant shall not leave country without permission;
5. The applicant shall intimate the Court and IO, in case of change of his address immediately;
6. The applicant shall also provide his mobile number to the IO;

Contd...3/

VIDYA
PRAKASH

Digitally signed
by VIDYA
PRAKASH
Date:
2020.10.06
17:01:01
+0530

Bail Application No. 1377/2020
FIR No.: 195/20
PS : Kashmiri Gate
U/s : 147/148/149/307/427/506/440/452 IPC & 25/27/54/59 Arms Act
State Vs Akash @ Arav

-3-

7. The applicant shall mark his attendance before the concerned IO (and if IO is not available then to concerned SHO) every alternative/second day through mobile by sharing his location with the SHO concerned till the charge-sheet is filed;
8. The applicant shall further make a call, preferably by audio plus video mode to concerned IO (and if IO is not available then to concerned SHO) once a week, preferably on Monday between 10 am to 5 pm till the charge-sheet is filed;
9. The applicant shall keep her such mobile number 'Switched On' at all the time, particularly between 8 am to 8 pm everyday till the charge-sheet is filed;
10. That the applicant will cooperate with the investigation / IO / SHO concerned and will appear before IO / Trial Court as and when called as per law;
11. The applicant shall not misuse the benefit of bail by indulging in commission of similar offence in future; and
12. The applicant shall join the investigation as and when so required.

The present bail application stands disposed of accordingly.

Copy of this order be given dasti to both the sides electronically, as per rules.

Attested copy of this order be sent to concerned Jail Superintendent on his official e-mail ID for being delivered to the applicant/ accused and for necessary compliance.

VIDYA
PRAKASH

Digitally signed
by VIDYA
PRAKASH
Date: 2020.10.06
17:01:13 +0530

(Vidya Prakash)
Addl. Sessions Judge (Electricity)
Central District/ THC/Delhi
06.10.2020

Bail Application No. 1324/20
FIR No.:143/20
PS : Kotwali
U/s : 394/397/411/120-B/34 IPC
State Vs Baljeet Singh

06.10.2020

This is an application for modification of the bail order dt. 01.07.2020 moved on behalf of applicant / accused.

Present: Sh. Balbir Singh, Id. Addl. PP for the State.

IO/ ASI Sita Ram is present.

Legal Aid Counsel Sh. S.N. Shukla for applicant/ accused.

Matter is taken up through Video Conferencing on account of COVID-19 lockdown.

Reply of bail application filed. Copy thereof supplied to Id. Counsel of applicant electronically.

On request of counsel for applicant / accused, the present application is adjourned arguments on 09.10.2020.

VIDYA
PRAKASH

Digitally signed by
VIDYA PRAKASH
Date: 2020.10.06
17:02:27 +0530

(Vidya Prakash)

Addl. Sessions Judge (Electricity)

Central District/ THC/Delhi

06.10.2020

06.10.2020

This is an application u/s 439 Cr.PC seeking regular bail, moved on behalf of applicant/accused.

Present: Sh. Balbir Singh, Id. Addl. PP for the State.
IO/ SI Pawan Kumar is present.
Sh. Divya Kumar Kaushik, Advocate for applicant/ accused.

Matter is taken up through Video Conferencing on account of COVID-19 lockdown.

Reply of bail application filed. Copy thereof supplied to Id. Counsel of applicant electronically.

Arguments heard. Reply perused.

After referring to the allegations appearing in the FIR, counsel for applicant has argued that the applicant is innocent and has been falsely implicated in this case and he is having clean antecedents. It is further argued that nothing has been recovered either from the possession of the present applicant or at his instance and applicant is in custody since 23.09.2020. It is further argued that the applicant is the sole bread earner of his family consisting of his mother and maternal grand-mother (nani) who are solely depended upon him and father of applicant has left from the company of his wife. It is further argued that FIR in question is based on false and concocted story created by the complainant in order to extort money from the applicant. It is further argued that no motive has been attributed to the applicant for causing any hurt to the victim. It is further argued that co-accused Ajit Kumar has been granted regular bail by Sessions Court on 05.10.2020 and therefore, the present applicant also deserves to be released on bail on the ground of parity. It is further argued that the applicant is no more required for the purpose of investigation and therefore, no useful purpose shall be served by keeping him behind the jail. It is, therefore, urged that he may be granted bail.

On the other hand, the bail application is opposed by Ld. Addl. PP on the ground that the allegations against the present applicant are grave and serious and also on the ground that he had actively participated in the commission of crime involved in this case. It is further argued that the present applicant had given danda blow on the head of complainant / victim Mohd. Tayyab during the incident and result on his MLC is still awaited. It is further argued that the role played by present applicant is different from the role played by co-accused Ajit Kumar and therefore, he cannot claim parity with him. It is further argued that investigation is still going on in this case and therefore, the bail application may be dismissed.

Contd...2/

Bail Application No. 1434/2020
FIR No.: 421/20
PS : Kotwali
U/s : 308/34 IPC
State Vs Puneet Singh @ Luv

-2-

In brief, it is alleged that on 22.09.2020, when victims namely Mohd. Tayyab and Aleem were sitting near Town Hall, the present applicant in furtherance of his common intention with co-accused persons, gave beatings to them. The present applicant allegedly used danda and gave danda blow on the head of the victim namely Mohd. Tayyab, whereas co-accused Ajit Kumar had allegedly given fist and kick blows to the victim in the commission of crime. Since the role allegedly played by this applicant is altogether different from the role assigned to said co-accused, present applicant cannot seek parity with him. Investigation is still going on in this case and result on the MLC of victim Mohd. Tayyab is yet to be received in this case. Hence, Court is of the view that no ground is made out at this stage for grant of bail to the present applicant / accused. Accordingly, the bail application is hereby dismissed.

Copy of this order be given dasti to both the sides electronically,
as per rules.

VIDYA
PRAKASH

Digitally signed by
VIDYA PRAKASH
Date: 2020.10.06
17:03:37 +0530

(Vidya Prakash)
Addl. Sessions Judge (Electricity)
Central District/ THC/Delhi
06.10.2020

Bail Application No. 1435/2020
FIR No.:196/2020
PS : Sadar Bazar
U/s : 25/54/59 Arms Act
State Vs Vipin Saini

06.10.2020

This is an application u/s 439 Cr.PC seeking regular bail, moved on behalf of applicant/accused.

Present: Sh. Balbir Singh, Id. Addl. PP for the State.
IO/ ASI Krishan Chand is present.
Sh. Sunil Tiwari, Advocate for applicant/ accused.

Matter is taken up through Video Conferencing on account of COVID-19 lockdown.

Reply of bail application filed. Copy thereof supplied to Id. Counsel of applicant electronically.

Part submissions made. It is submitted on behalf of applicant that his wife is having advance stage of pregnancy and copies of her ultrasound reports are also filed along with bail application. However, the reply of IO is silent on the said aspect.

IO claims that copies of medical documents regarding wife of applicant, have not been received by him. Let the same be provided to him today itself and IO is directed to get the same verified from the concerned Authorities and to submit the report on the next date.

Put up on 08.10.2020 for further arguments on the bail application.

VIDYA
PRAKASH

Digitally signed
by VIDYA
PRAKASH
Date: 2020.10.06
17:06:16 +0530

(Vidya Prakash)
Addl. Sessions Judge (Electricity)
Central District/ THC/Delhi
06.10.2020

Bail Application No. 1433/2020
FIR No.: 195/20
PS : Kashmiri Gate
U/s : 147/148/149/307/427/506/440/452 IPC & 25/27/54/59 Arms Act
State Vs Rohit Yadav

06.10.2020

This is an application u/s 438 Cr.PC seeking anticipatory bail moved on behalf of applicant /accused.

Present: Sh. Balbir Singh, Id. Addl. PP for the State.
IO/ SI Satender Singh is present.
Sh. Vipin Kumar, Advocate for applicant/ accused.

Matter is taken up through Video Conferencing on account of COVID-19 lockdown.

Reply of bail application filed. Copy thereof supplied to Id. Counsel of applicant electronically.

Arguments on bail application heard. Reply perused.

At the very outset, Ld. Additional PP, has raised an objection as to the maintainability of second anticipatory bail application on the ground that previous anticipatory bail application of this applicant has already been dismissed by Sessions Court on 21.09.2020.

Ld. counsel of applicant has been called upon to advance arguments on the issue of maintainability of second anticipatory bail application in the light of aforesaid submission made by Ld. Additional PP on behalf of State.

Ld. Counsel of applicant has argued that anticipatory bail application is very much maintainable under the law even after dismissal of previous anticipatory bail application on merits, as it has been wrongly observed in the order dt. 21.09.2020 (supra) that the car visible in the CCTV footage, belongs to the present applicant / accused. He argued that the said car belongs to one Mohd. Farjad son of Mohd. Nivaji and the present applicant has no concern with the said car. He further argued that since the previous bail anticipatory bail application of present applicant was dismissed on the basis of said observation made by Sessions Court, the present bail application is maintainable before the Sessions Court. It is further argued that the applicant is ready and willing to join investigation but since he apprehends his arrest in this case, he needs to be protected under the law.

On the other hand, Id. Addl. PP argued that there is no change whatsoever in the facts and circumstances of the case after dismissal of previous anticipatory bail application of the present applicant.

Contd....2/

VIDYA
PRAKASH

Digitally signed by
VIDYA PRAKASH
Date: 2020.10.06
17:04:45 +0530

Bail Application No. 1433/2020
FIR No.: 195/20
PS : Kashmiri Gate
U/s : 147/148/149/307/427/506/440/452 IPC & 25/27/54/59 Arms Act
State Vs Rohit Yadav

-2-

The Full Bench of Hon'ble High Court in the matter titled as "**Maya Rani Guin & etc. Vs. State of West Bengal**" reported at **2003 Cr.L.J. 1**, has categorically held that entertaining a second application for anticipatory bail would amount to review or reconsideration of the earlier order passed by a Division Bench having Coordinate Jurisdiction, as the accusation remains unchanged. The accusation being the sine-qua-non and which remains the same there cannot be any revival of "*reasons to believe*" or apprehension of arrest, which was considered by Court in the earlier application for anticipatory bail. Thus, the second application for anticipatory bail, even if new circumstances develop after rejection or disposal of the earlier application, is not maintainable under the law.

Similar view has been taken by our own High Court in the matter titled as **Kamlesh Gupta & Anr. Vs The State (NCT of Delhi)** reported at **2007 (2) JCC 1407** and also in the matter titled as **Balbir Kumar & Ors. Vs. State** reported at **2006 (3) JCC 1338**.

Taking guidance from the law discussed in the aforementioned judgments, there is no scope of doubt that second anticipatory bail application is not maintainable after dismissal of similar previous anticipatory bail application on merits before Sessions Court.

In the case in hand, the perusal of order dt. 21.09.2020 (supra) passed by the Sessions Court whereby previous anticipatory bail application of the applicant was dismissed, would show that same was not dismissed merely on the basis that car visible in the CCTV footage, was belonging to him. It is expressly mentioned in the said order that custodial interrogation of the present applicant is required for the reasons recorded therein.

In the light of above-said discussion, this Court is of the view that the present second anticipatory bail application moved by applicant namely Rohit Yadav, is not maintainable under the law. Consequently, same is hereby dismissed as not maintainable.

Copy of this order be given dasti to both the sides electronically, as per rules.

VIDYA
PRAKASH

Digitally signed
by VIDYA
PRAKASH
Date: 2020.10.06
17:05:01 +0530

(Vidya Prakash)

Addl. Sessions Judge (Electricity)
Central District/ THC/Delhi
06.10.2020

06.10.2020

This is an application u/s 439 Cr.PC for grant of regular bail moved on behalf of applicant/accused.

Present: Sh. Balbir Singh, Id. Addl. PP for the State.
IO/ SI Pawan Yadav is present.
Sh. Salim Ahmed, Advocate for applicant/ accused.

Matter is taken up through Video Conferencing on account of COVID-19 lockdown.

Reply of bail application filed. Copy thereof supplied to Id. Counsel of applicant electronically.

Arguments heard. Reply perused.

After referring to the allegations appearing in the FIR, counsel for applicant has argued that the applicant is innocent and has been falsely implicated in this case and he is having clean antecedents. It is further argued that nothing has been recovered either from the possession of the present applicant or at his instance and applicant is in custody since 11.07.2020. It is further argued that the only allegation appearing on record against this applicant is that of inflicting blade injury to the victim and thus, no case for the offence punishable under section 307 IPC is made out. It is further argued that investigation is already completed and charge-sheet has already been filed in this case and since trial is not likely to be completed in near future due to pandemic situation, the applicant deserves to be released on bail.

On the other hand, the bail application is opposed by Ld. Addl. PP on the ground that the allegations against the present applicant are grave and serious and also on the ground that he had actively participated in the commission of crime involved in this case. It is further argued that the present applicant caused incised wound with sharp object on the abdomen of the victim during the incident in question and result on MLC of victim is still awaited. On instructions of IO, Ld. Addl. PP has also pointed out that Section 387 IPC was also added during investigation and applicant is charge-sheeted for the offences under Section 307/387/452 IPC. It is further argued that the present applicant is BC of the area and he is habitual offender found involved in more than eight criminal cases details of which are mentioned in the list of involvement filed by IO along with reply. It is therefore, urged that the bail application may be dismissed.

Contd....2/

VIDYA
PRAKASH

Digitally signed
by VIDYA
PRAKASH
Date: 2020.10.06
17:05:32 +0530

-2-

In brief, it is alleged against this applicant that he is drug addict and he demanded money from complainant / victim for purchasing the drugs by putting him in fear of death and when victim refused to pay money to the applicant, he inflicted injury with surgical blade in his abdomen. It is mentioned in the MLC of victim produced by IO that the size of incised wound present on L Flank / Lumber region was 7 X 0.5 cm and the injury was fresh and was caused by sharp edged weapon.

Apart from above, the present applicant is shown to have been arrested at the instance of complainant on 11.07.2020 and the weapon of offence is allegedly recovered at his instance from his house. Moreover, the applicant is stated to be habitual offender involved in more than eight criminal cases relating to similar offences.

After considering the overall facts and circumstances of the case including the nature of allegations, the gravity of offences, the manner in which offences are shown to have been committed by the present applicant, his previous involvements and in the light of discussion made herein above, Court is of the view that no ground is made out at this stage for grant of bail to the present applicant. Accordingly, the bail application is hereby dismissed.

Copy of this order be given dasti to both the sides electronically, as per rules.

VIDYA
PRAKASH

Digitally signed
by VIDYA
PRAKASH
Date: 2020.10.06
17:05:52 +0530

(Vidya Prakash)

Addl. Sessions Judge (Electricity)
Central District/ THC/Delhi
06.10.2020

Bail Application No. 1437/2020
FIR No.:227/20
PS : DBG Road
U/s : 376/328/323/342/506/34 IPC
State Vs Akshit Jain

06.10.2020

This is an application u/s 438 Cr.PC seeking anticipatory bail moved on behalf of applicant /accused.

Present: Sh. Balbir Singh, Id. Addl. PP for the State.

SHO PS DBG Road is present along with IO SI Priyank Rana.
Complainant / prosecutrix is also present and is duly identified by the IO
Sh. Vivek Singh, Advocate for applicant / accused.

Matter is taken up through Video Conferencing on account of COVID-19 lockdown.

Reply of bail application filed. Copy thereof supplied to Id. Counsel of applicant electronically.

Part argument on the bail application heard. During the course of arguments, it has been found that reply of bail application filed on behalf of concerned SHO before the Court, is completely vague and it does not specify the details of necessary investigation carried out in this case till date. The said conduct on the part of the IO/ SHO concerned is found to be totally unsatisfactory.

At this stage, concerned SHO has assured the Court that such lapse shall not be repeated in future in any case and he seeks one week's time to file detailed status report on all the relevant points / aspects involved in the investigation, before the Court. Request is allowed.

SHO is directed to ensure that fair and independent investigation is carried out by the investigating agency in this case and detailed status report duly forwarded by him, is filed before the Court on or before next date, with advance copy thereof to counsel for applicant / accused through electronic means.

In the meantime, applicant / accused may hand over all the mobile phones / laptop, if any, which were being used by him during the relevant period, through his father to the Investigating Officer by tomorrow, as his counsel states at Bar that the applicant is very much willing to hand over his mobile phone(s) to the IO if so required for the purpose of carrying out fair investigation in this case.

IO is directed to submit report on the aforesaid aspect as well, in case any such mobile phone / laptop is / are handed over to him from the side of applicant / accused.

Put up on 13.10.2020 for further arguments on the bail application.

VIDYA
PRAKASH
(Vidya Prakash)

Digitally signed by
VIDYA PRAKASH
Date: 2020.10.06
17:01:49 +0530

Addl. Sessions Judge (Electricity)
Central District/ THC/Delhi
06.10.2020