

IN THE COURT OF SH. NAVEEN KUMAR KASHYAP
ADDITIONAL SESSIONS JUDGE-04: CENTRAL:
TIS HAZARI COURTS: DELHI

State Vs Baljeet Singh @ Sunny @ Honey s/o Lt. Mr. Ramesh
FIR No. 143/2020
P. S. Kotwali
U/s: 394, 397, 411, 120B, 34 IPC

01/07/2020

Present: Mr. Manoj Garg, Learned Addl. PP for State is available through electronic mode.

Mr Sunil Tiwari, Learned counsel for applicant / accused Rajesh through electronic mode.

Vide this order, bail application u/s 439 Cr.PC filed by applicant Baljeet Singh @ Sunny @ Honey s/o Mr. Ramesh through counsel is disposed of.

It is stated in the application that he falsely implicated in the present case; that due to spread of corona virus his family members are facing hardship; that there is no previous criminal involvement of the present accused; more importantly it is argued that only a planted recovery of Rs. 5,000/- is shown from the present accused; that he is in JC from the last one and half month; that at best offence u/s 411 IPC is made out against the accused which is punishable upto 3 years only.

On the other hand, in reply filed by the IO, it is stated that he is involvement in many criminal cases but it is further mentioned that chargesheet is already filed and offence u/s 411 IPC is found against the present accused. As such, bail application is opposed.

I have heard both the sides.

State Vs Baljeet Singh @ Sunny @ Honey s/o Lt. Mr. Ramesh
FIR No. 143/2020
P. S. Kotwali
U/s: 394, 397, 411, 120B, 34 IPC

The personal liberty is a priceless treasure for a human being. It is founded on the bed rock of constitutional right and an entrenched 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 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 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 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-

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available 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 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.

In the present case, the maximum punishment of the offences alleged against the present accused is 3 years. It is a matter of record that accused is in JC for about one and half month. Thus, trial is likely to take time. Further, as far as present accused is concerned, nothing remains to be recovered at his instance. In fact, the period for seeking police remand is already over way back. Further, it is alleged that he is involved in such other matters, but no conviction or even detail of any other case is placed on record in reply filed by the IO.

In above facts and circumstances, present accused is granted bail subject to furnishing of personal bond in the sum of **Rs. 20,000/- with one sound surety of like amount**, subject to the satisfaction of the learned Trial Court and the following additional conditions:

- i) That he will appear before IO / Trial Court as and when called as per law.***
- ii) He will not indulge in any kind of activities which are alleged against him in the present case.***
- iii) That he will not leave India without permission of the Court.***
- iv) He will not threaten the witness or tampering with evidence.***

v) He shall convey any change of address immediately to the IO and the court;

vi) He shall also provide his mobile number to the IO;

It is clarified that in case if the applicant/ accused is found to be violating any of the above conditions, the same shall be a ground for cancellation of bail and the State shall be at liberty to move an application for cancellation of bail.

I may observe that certain guidelines had been laid down by the Hon'ble Delhi High Court in the case of **"Ajay Verma Vs. Government of NCT of Delhi"** WP (C) 10689/2017 dated 08.03.2018 wherein it was observed and I quote as under:

"..... The trial courts should not only be sensitive but extremely vigilant in cases where they are recording orders of bail to ascertain the compliance thereof.....When bail is granted, an endorsement shall be made on the custody warrant of the prisoner, indicating that bail has been granted, along with the date of the order of bail.

- a) In case of inability of a prisoner to seek release despite an order of bail, it is the judicial duty of the trial courts to undertake a review for the reasons thereof.
- b) Every bail order shall be marked on the file.
- c) It shall be the responsibility of every judge issuing an order of bail to monitor its execution and enforcement.
- d) In case a judge stands transferred before the execution, it shall be the responsibility of the successor judge to ensure execution....."

I note that in the present case the bail bonds have been directed to be furnished before the Ld. Trial Court/ Ld. MM and hence in terms of the

State Vs Baljeet Singh @ Sunny @ Honey s/o Lt. Mr. Ramesh
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above observations, the Ld. MM is impressed upon to inform this court about the following:

1. *The date on which conditions imposed by this court are satisfied;*
2. *The date of release of prisoner from jail;*
3. *Date of ultimate release of prisoner in case the prisoner is in jail in some other case.*

The copy of this order be sent to **Ld. MM** and also to the **Superintendent Jail** who shall also inform this court about all the three aspects as contained in the para herein above. The Superintendent Jail is also directed to inform this court if the prisoner is willingly not furnishing the personal bond or in case if he is unable to furnish the surety or any other reason given by the prisoner for not filing the bonds. One copy of this order be also sent to the **SHO Concerned** to ensure compliance.

The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain dasti order or through electronic mode. Copy of order be uploaded on website.


(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi/01/07/2020)

Anticipatory Bail

**State vs Rohit s/o Mr. Mahesh Kumar
FIR No. Not Known
P. S. Sadar Bazar
U/s: Not Known**

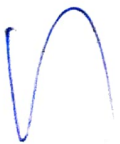
01.07.2020

Present: Mr. Manoj Garg, Learned Addl. PP for State through VC.
Mr. Anil Kumar, Learned counsel for applicant / accused
through VC.

Vide this order, present bail application u/s 438 Cr.PC filed on
24.06.2020 for anticipatory bail by accused / applicant Rohit filed through
his counsel is disposed of.

In nut shell, it is stated by the accused that he is a permanent
resident of Delhi and aged about 25 years and doing private job; that he
was having love affair with one Ms. Simran from the last many years and
both of them wanted to marry but the family members of Simran were
against the marriage as such marriage was intercaste marriage but now
ultimately applicant Rohit has married such Ms. Simran at Arya Samaj
Mandir on 21/06/2020 according to Hindu rites and ceremonies and
accordingly they are living as husband and wife. That such Ms. Simran is
major. Her date of birth is 31/07/2000. Copy of her Aadhaar card is
enclosed alongwith the present application; that incollusion with the
parents of such Simran, local police is harassing and pressuring the
present applicant and he apprehend his arrest at the hand of police in the

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FIR No. Not Known
P. S. Sadar Bazar
U/s: Not Known



complaint made by parents of such Ms. Simran. As such, he has filed present application seeking prayer that IO / SHO be directed to release the applicant on bail in the event of arrest.

In reply filed by ASI Kesar Singh as forwarded by SHO Sadar Bazar, it is submitted that as per record of their police station no case is registered against the present applicant. Although, one complaint was received against him from one Seema, mother of Ms. Simran regarding her kidnapping on 24/06/2020. It is further stated that thereafter, there was one letter from such Simran also regarding her marriage with the present applicant and that such Simran is fit and fine vide letter dated 23/06/2020. It is further stated that both such Rohit and Simran are adult and major and married on their own wish.

I have heard both the sides and 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,

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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 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.

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.

State vs Rohit s/o Mr. Mahesh Kumar
FIR No. Not Known
P. S. Sadar Bazar
U/s: Not Known

Thus, as per the report of the police station concerned, no action / FIR is registered against the present applicant. In fact, they are aware about the complaint made by the mother of Ms. Simran but such officials are also aware about the age of Simran that she is major and married on her own. In any case no FIR is registered against the present applicant. As registration of FIR is pre-condition for investigation as per the Cr.PC. There cannot be any reasonable apprehension of arrest without FIR. As such, no ground is made out to grant the relief sought in the present application.

With these observations present bail application is disposed of as dismissed. Learned counsel for the applicant / accused is at liberty to collect the order dasti or through electronic mode. Copy of order be uploaded on the website.

(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi/01/07/2020)

Bail Application

State Vs Rakesh @ Tinda S/o Babu Lal
FIR No. 20/2020
PS.: Nabi Karim
U/s: 324,307,34 IPC

01.07.2020

Present: Mr. Manoj Garg, Learned Addl. PP for State through VC.
Mr. Anil Kumar, learned counsel for the applicant / accused through VC.

Vide this order, the bail application under section 439 Cr.P.C. on behalf of accused dated 23.06.2020 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 ordinarily be interfered with unless there exist cogent grounds

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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

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

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evidence and elaborate documentation of merits of case should not 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 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.

In the present case, it is argued on behalf of accused that accused is in JC since his arrest on 06.03.2020. That initially the present case was registered u/s 324 IPC and he formally arrested but later on he falsely implicated by converting the same into section 307 IPC. That there is nothing to be recovered from the accused. That investigation is already complete and chargesheet is already filed and no purpose would be served by keeping the accused in JC. That he is permanent resident of Delhi. It is further argued that he has limited role even as per the case of the prosecution. As such, it is prayed that he be granted regular bail.

On the other hand, it is stated by the IO, as also argued by the learned Addl.PP for the state that he actively participated in the offence in question. That he alongwith co-accused came in drunken condition at the spot of incident and started abusing Azeem/complainant, when the complainant objected, present applicant caught hold of complainant and Aman/co-accused stabbed him in the waist with knife and thereafter both ran away from the spot, the complainant was admitted in Lady Harding Hospital. It is further claimed that in supplementary statement, complainant stated that such accused shouted that they will kill him and with that intention, they attacked the complainant. As per MLC, nature of injury is grievous. As such, present application is opposed. It is further stated that present accused is a habitual criminal and there are three other criminal cases pending against him. It is further stated that investigation is at initial stage. It is further stated that his earlier bail application is

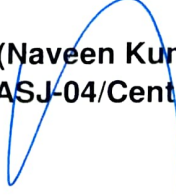
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recently dismissed on 01.06.2020.

I find force in the arguments of learned Addl.PP for the state. Investigation is at the initial stage. The present accused actively participated in the crime and because of his participation that co-accused was able to stab the victim. Further the nature of injury is grievous in nature and weapon of offence was knife. Further, more importantly the applicant suppressed the fact that his bail application is already dismissed on 01.06.2020. As such, such accused does not deserve the relief claimed at present. As such, this court is not inclined to grant the relief as sought in the present application. Hence, the same is dismissed.

Copy of this order be sent to IO concerned for his report. Further, a copy of this order be sent through Filing counter to the concerned learned Magistrate Court for its record.

Copy of this order be given dasti to counsel for applicant or through electronic mode.


(Naveen Kumar Kashyap)
ASJ-04/Central/THC/Delhi
01.07.2020

BAIL APPLICATION

**FIR No. :58/2018
PS: EOW Cell
STATE v. Chittar Singh
U/S: 406/409/420/120B IPC**

01.07.2020.

Present: Sh. Manoj Garg, Addl. PP for the State through VC.
Mr. Raunak Sathpathy, learned counsel for the
applicant through VC.

Reply filed by the IO.

Arguments heard.

Put up for orders at 4:00 PM.

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

4:00 PM

Present: Sh. Manoj Garg, Addl. PP for the State through VC.

As per the claim of the applicant / accused, he has
no role to play in day to day working of the company.

On the other hand, in the reply, the part of the
applicant is contrary to the claim made by the applicant.

As such, put up for further reply, arguments,
clarification for **06/07/2020**.

In the meanwhile, IO is directed not to take any
coercive action against the present applicant. Further applicant
is directed to fully cooperate in the investigation.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
01.07.2020

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IN THE COURT OF SH. NAVEEN KUMAR KASHYAP
ADDITIONAL SESSIONS JUDGE-04: CENTRAL:
TIS HAZARI COURTS: DELHI

State Vs Amit Gupta s/o Lal Chand Gupta
FIR No. 181/2020
P. S. Nabi Karim
U/s: 420/120B/511/34 IPC

01/07/2020

Present: Mr. Manoj Garg, Learned Addl. PP for State is available through electronic mode.
Mr Dig Vijay Singh , Learned counsel for applicant / accused through electronic mode.
IO is present in person.

Clarification given by the IO.

Vide this order, bail application u/s 439 Cr.PC filed by applicant Amit Kumar s/o Mr. Lal Chand Gupta through counsel is disposed of.

It is stated in the application that he falsely implicated in the present case; that due to spread of corona virus his family members are facing hardship; that there is no previous criminal involvement of the present accused. It is further stated that police official illegally detained him and after two days only showed his formal arrest; that on a bare perusal of FIR and the allegations of prosecution at best allegations are attempt to cheating which is punishable for a maximum punishment for three and half years only. In fact, it is stated that no financial loss is caused to anybody including

State Vs Amit Gupta s/o Lal Chand Gupta
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U/s: 420/120B/511/34 IPC

the bank; accused has deep roots in society; that matter of trial which is likely to take time. Further he has relied upon certain case laws also. As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by the IO, as also argued by learned Addl.PP for the State it is stated that there are previous and specific allegations against the accused, present accused in connivance with two foreign national have committed forgery in the ATM booth of Nabi Karim; that he is part of gang which is involved in such kind of crime. Further, it is stated that there is incriminating evidence like cctv footage, CDR etc. that co-accused are yet to be arrested and investigation is still on. As such, bail application is opposed.

I have heard both the sides.

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

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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 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 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

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case, detailed examination of evidence and elaborate documentation of merits of case should not 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)

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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 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



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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.

In the present case, the maximum punishment of the offences alleged against the present accused is 3 ½ years. It is a matter of record that accused is in JC for about

three weeks. Further, as far as present accused is concerned, nothing remains to be recovered at his instance. In fact, the period for seeking police remand is already over. As such, no purpose would be served by keeping such accused in JC. Investigation and thereafter trial is likely to take time.

In above facts and circumstances, such accused is granted bail subject to furnishing of **personal bond in the sum of Rs. 15,000/- with two sound surety of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

- i) Applicant shall not flee from the justice;*
- ii) Applicant shall not tamper with the evidence;*
- iii) Applicant shall not threaten or contact in any manner to the prosecution witnesses ,*
- iv) Applicant shall not leave country without permission;*
- v) Applicant shall convey any change of address immediately to the IO and the court;*
- vi) Applicant shall also provide his mobile number to the IO;*
- vii) Applicant shall mark his attendance before concerned IO (and if IO is not available then to concerned SHO) every alternative /second day through mobile by sharing his/her location with the SHO concerned till the chargesheet is filed;*

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viii) 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 a.m. to 5 p.m. till the chargesheet is filed.

ix) Applicant shall keep their such mobile number 'Switched On' at all the time, particularly between 8 am to 8 pm everyday till the chargesheet is filed

x) That applicant will cooperate with the investigation / IO / SHO concerned and will appear before IO / Trial Court as and when called as per law.

xi) Applicant will not indulge in any kind of activities which are alleged against him in the present case.

It may also be observed that certain guidelines had been laid down by the Hon'ble Delhi High Court in the case of **"Ajay Verma Vs. Government of NCT of Delhi"** WP (C) 10689/2017 dated 08.03.2018 wherein it was observed and I quote as under:

"..... The trial courts should not only be sensitive but extremely vigilant in cases where they are recording orders of bail to ascertain the compliance thereof.....When bail is granted, an endorsement shall be made on the custody warrant of the prisoner, indicating that bail has been granted, along with the date of the order of bail.

a) *In case of inability of a prisoner to*

seek release despite an order of bail, it is the judicial duty of the trial courts to undertake a review for the reasons thereof.

- b) *Every bail order shall be marked on the file.*
- c) *It shall be the responsibility of every judge issuing an order of bail to monitor its execution and enforcement.*
- d) *In case a judge stands transferred before the execution, it shall be the responsibility of the successor judge to ensure execution.....”*

I note that in the present case the bail bonds have been directed to be furnished before the Ld. Trial Court/ Ld. MM and hence in terms of the above observations, the Ld. MM is impressed upon to inform this court about the following:

- a) *The date on which conditions imposed by this court are satisfied;*
- b) *The date of release of prisoner from jail;*
- c) *Date of ultimate release of prisoner in case the prisoner is in jail in some other case.*

The copy of this order be sent to **Ld. MM** and also to the **Superintendent Jail** who shall also inform this court about all the three aspects as contained in the para herein above. The Superintendent Jail is also directed to inform this court if the prisoner is willingly not furnishing the personal bond or in case if he is unable to furnish the surety or any other reason given by the prisoner for not filing the bonds. One copy of this order be also sent to the **SHO Concerned** to ensure compliance.

ANTICIPATORY BAIL APPLICATION

**FIR No. : 47/2020
PS: Kashmere Gate
STATE v. Manoj Rai
U/S: 33,38 Delhi Excise Act.**

01.07.2020.

Present: Sh. Manoj Garg, Ld. Addl. PP for the State
through VC.
Sh. S.P. Sharma, Ld. Counsel for applicant/
accused through VC.

Reply filed by IO.

Part arguments in detail heard on the anticipatory
bail application of accused.

Counsel needs some time to file case laws.

At request, put up for further arguments on

06.07.2020.

**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
01.07.2020**

BAIL APPLICATION

**FIR No. :134/2020
PS: Kashmere Gate
STATE v Joginder Pal s/o Ram Gopal
U/S: 379/411 IPC**

01.07.2020.

Present: Sh. Manoj Garg, Addl. PP for the State through VC.

It is stated by the learned counsel for the applicant /
accused that he is not well and seeks adjournment.

As such, put up for reply, arguments and
appropriate order for **06/07/2020**.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
01.07.2020

BAIL APPLICATION

**FIR No. : 210/2020
PS: Chandni Mahal
STATE v. Hashim
U/S: 313,323,341,354,34 IPC**

01.07.2020.

Present: Sh. Manoj Garg, Ld. Addl. PP for the State
through VC.
Sh. Mohit Sharma, Ld. Counsel for applicant/
accused through VC.

Reply not filed by IO.

As such, issue show cause notice to IO as to why
such report is not filed through SHO concerned.

**Put up for reply, further arguments and
appropriate orders on 03.07.2020.**

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
01.07.2020

AT 12 noon

At this stage reply filed by IO. Same is taken on
record.

Put up on date fixed i.e. 03.07.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
01.07.2020

BAIL APPLICATION

**FIR No. : 210/2020
PS: Chandni Mahal
STATE v. Saifuddin
U/S: 313,323,341,354,34 IPC**

01.07.2020.

Present: Sh. Manoj Garg, Ld. Addl. PP for the State
through VC.
Sh. Mohit Sharma, Ld. Counsel for applicant/
accused through VC.

Reply not filed by IO.

As such, issue show cause notice to IO as to why
such report is not filed through SHO concerned.

**Put up for reply, further arguments and
appropriate orders on 03.07.2020.**

**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
01.07.2020**

AT 12 noon

**At this stage reply filed by IO. Same is taken on
record.**

Put up on date fixed i.e. 03.07.2020.

**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
01.07.2020**

EXTENSION OF INTERIM BAIL APPLICATION

State Vs Sunita
FIR No. 109/2020
PS.: Nabi Karim
U.S: 457,380,411,120B,34 IPC

01.07.2020

Present: Mr. Manoj Garg, Learned Addl. PP for State through VC.
Mr. Rishabh Jain, learned counsel for accused through VC.

1. Vide this order, application dated 30.06.2020 filed by accused **Sunita** through counsel for extension of interim bail is disposed off.
2. Arguments heard.
3. It is stated that she was granted interim bail for 45 days vide order dated 16.05.2020, as bail bond were furnished on 17.05.2020. As such, it is claimed that she was on interim bail till 02.07.2020. It is further stated that she has not misused such concession of bail till date. That she is a daily wager and only source of income for her two children. That corona virus pandemic is still persisting. As such, it is prayed that such interim bail be further extended for a period of 45 days.
4. Present extension is strongly opposed by the state stating that for the reasons stated, she is already accommodated and she was granted interim bail on merit vide order dated **16.05.2020** and no ground is made out for extension of the same.
5. I have heard both the sides and gone through the record, including interim bail order dated **16.05.2020**. On a bare

: 2 :

reading of such order, it is clear that such interim bail was not granted in terms of criteria of Hon'ble High Court of Delhi regarding relaxed condition, but on merit on the facts of the present case, to take care of her children and that she being a lady, so that she can make appropriate arrangements for them while on such interim bail.

It may be noted that the case of the present accused is not covered by the order of Hon'ble High Court of Delhi in its Division Bench order dated 22.06.2020 in W.P.(C) 3080/2020 titled as "Court on its own motion v. Govt. of NCT of Delhi & Anr., as vide such order Hon'ble High Court only extended interim bail granted based on relaxed criteria of Hon'ble High Court.

No further leniency is required in the considered view of this court. As such, having regard to the nature of the case and he has already given opportunity to avail interim bail for 45 days, this court is not inclined to extend the same. **With these observations, present application is dismissed.**

6. Accordingly, accused is directed to surrender before the Jail Superintendent concerned in terms of original interim bail order dated 20.05.2020.

7. The present application stands disposed off accordingly. Both side are at liberty to collect the order dasti or through electronic mode. **Copy of this order be sent to concerned IO/SHO.**

(Naveen Kumar Kashyap)
ASJ-04/Central/01.07.2020

ANTICIPATORY BAIL APPLICATION

**FIR No. : Not Known
PS: Pahar Ganj
STATE v. Tarun S/o Mr. Ravinder Singh
U/S: Not Known**

01.07.2020.

Present: Sh. Manoj Garg, Ld. Addl. PP for the State
through VC.
Sh. Rajan Bhatia, Ld. Counsel for applicant/
accused through VC.

Reply filed by IO.

Part arguments in detail heard on the anticipatory
bail application of accused **Tarun**.

**Put up for filing of proof regarding age of Menka
with whom Tarun/applicant has allegedly married.**

Put up on 03.07.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
01.07.2020

INTERIM BAIL APPLICATION

State Vs Umesh
FIR No. 244/2020
PS.: Kotwali
U.S: 392,411,34 IPC

01.07.2020

Present: Mr. Manoj Garg, Learned Addl. PP for State through VC.
Mr. Hansraj Singh, learned counsel for accused through VC.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020 and 20.06.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority, present application is taken up.*
2. Arguments heard.
3. It is stated by counsel that offence in question are, **as per the charge framed**, u/s 392, 411 IPC r/w section 34 IPC. That he is falsely implicated in the present case. That police officials are wrongly claiming that 25 cases are pending against him. It is further stated that he is already discharged in all such cases except one case FIR no. 489/2016 PS Kotwali. It is further stated that he is not a previous convict. It is further

stated that his wife is at advanced stage of pregnancy and she requires blood and one attendant as there is nobody else to look after her. Medical documents relating to such pregnancy are enclosed alongwith the application. That he may be released on interim bail.

4. Reply dated 30.06.2020 filed by IO. Such interim bail application is opposed. It is stated that offence is heinous in nature and he is involved in other cases also. But it is stated that medical papers relating to his wife are verified and found to be correct. It is further stated that if he is released on bail, he may involve in other case. Further, his presence may not be secured for the purpose of trial. It is further claimed that he may threaten the witness and tamper with evidence.

5. The type of cases/offences with which accused is charged are discussed by **Hon'ble High Court in its meeting dated 07.04.2020**. For the present type of offences, a relaxed criteria for interim bail is recommended by Hon'ble High Court on such date but if accused is in JC for one year or more. In the present case, accused is arrested on 08.06.2020 only. As such, the case of the present accused does not fall under the relaxed criteria given by the Hon'ble High Court.

6. Otherwise, this court do not find the ground on merit stated by the accused sufficient to admit him to interim bail. Further, it is not the case that he is or anybody in his barrack is suffering from corona virus. Further, offence is very serious in nature. Further, such accused is involved in other criminal case also. As such, this court is not inclined to grant interim bail to the present accused. **With these observations, present interim bail application is dismissed.**

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7. The present application stands disposed off accordingly. Both side are at liberty to collect the order dasti or through electronic mode. **Further a copy of this order be sent to the IO/SHO concerned through electronic mode.**

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
01.07.2020

BAIL APPLICATION

FIR No. : 478/2018

PS: Burari

STATE v. Sanjay Tiwari & Ors. (Amar Nath)

U/S: 452,306,506,324,427,34 IPC

01.07.2020.

Present: Sh. Manoj Garg, Ld. Addl. PP for the State
through VC.
Sh. Avdhesh Kumar, Ld. Counsel for applicant/
accused through Electronic Mode.

Reply not filed by IO.

**It is informed that IO is transferred. As such,
issue notice to SHO as well as to complainant through SHO
concerned for next date.**

Put up with file on 03.07.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
01.07.2020

BAIL APPLICATION

FIR No. : 271/2018

PS: DBG Road

STATE v. Chinu @ Prakash @ Akash s/o Mr. Daulat Ram

U/S: 392, 394, 397, 326, 307, 34 IPC

01.07.2020.

Present: Sh. Manoj Garg, Addl. PP for the State through VC.
Mr. P.K. Garg, learned counsel for accused through VC.

It is stated that there are other involvement of the present accused.

As such, put up for reply from the IO only, arguments and appropriate order for 03/07/2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
01.07.2020

INTERIM BAIL APPLICATION

**FIR No. : 14/2019
PS: Subzi Mandi Railway Station
STATE v. Varun
U/S: 394,397,34 IPC**

01.07.2020.

Present: Sh. Manoj Garg, Ld. Addl. PP for the State
through VC.
Sh. Sanjay Kumar, Ld. Counsel for applicant/
accused through Electronic Mode.

Reply not filed by IO.

**Put up for reply, arguments and appropriate
orders alongwith case file on 06.07.2020.**

**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
01.07.2020**

: 1 :

BAIL APPLICATION

**FIR No. : 22/2018
PS: Kamla Market
STATE v. Radha D/o Madan Lal
U/S: 302 IPC**

01.07.2020.

Present: Sh. Manoj Garg, Ld. Addl. PP for the State through VC.
Sh. Sachin Kumar Jain, Ld. Legal Aid Counsel for accused/applicant through VC.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020 and 20.06.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority. Accordingly, present application is taken up.*

2. Reply filed by IO dated 30.06.2020.

3. As per such reply inter alia there is no other criminal case as per record against the present accused.

4. The application is received through Jail Superintendent concerned of the present applicant. But certificate of conduct/conduct report not filed.

5. Further (in view of direction by Hon'ble HC), **Jail**

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Superintendent concerned to file:

- (i) Copy of **custody warrant** of present accused;
- (ii) A **certificate regarding good conduct**, if any, of the accused during his custody period so far.

6. As such, issue notice to the Jail Superintendent accordingly.

7. **Counsel for accused is advised to collect the order online through electronic mode.**

8. **Put up for report, arguments and further appropriate orders on 06.07.2020 through VC.**

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
01.07.2020

BAIL APPLICATION

FIR No. : 190/2013
PS: Rajender Nagar
STATE v. Bunty
U/S: 302,396,411,34 IPC

01.07.2020.

Present: Sh. Manoj Garg, Ld. Addl. PP for the State
through VC.
Sh. S.P. Sharma, Ld. Counsel for accused/
applicant through VC.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020 and 20.06.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority. Accordingly , present application is taken up.*

2. Reply filed by IO.

3. As per such reply inter alia there is no other criminal case as per record against the present accused.

4. Reply not received from Jail Superintendent.

5. Further (in view of direction by Hon'ble HC), **Jail**

Superintendent concerned to file:

(i) Copy of **custody warrant** of present accused;

BAIL APPLICATION

FIR No. :133/2017

PS: Sarai Rohilla Railway Station

STATE v. Hardeep Singh @ Ranjeet s/o Mr. Patel Singh

U/S: 392, 397, 34 IPC r/w 137, 146, IR Act

01.07.2020.

Present: Sh. Manoj Garg, Addl. PP for the State through VC.
Mr. Nitin Kumar, learned counsel for applicant /
accused through VC.

Learned counsel for accused has stated that such accused was getting treatment from Baba Sahab Bhimrao Ambedkar Hospital, Rohini and even from LNJP while in judicial custody. Such accused is on interim bail at present but his medical record is lying with the Jail Authority only. He needs copy of the same for his treatment while on interim bail.

Heard.

Issue notice to the Jail Superintendent concerned to provide copy of the medical record of such accused.

Put up for **04/07/2020**. Further a copy of this order be sent to Jail Superintendent concerned for his ready reference.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
01.07.2020

: 1 :

BAIL APPLICATION

FIR No. : 190/2013
PS: Rajender Nagar
STATE v. Bunty
U/S: 302,396,411,34 IPC

01.07.2020.

Present: Sh. Manoj Garg, Ld. Addl. PP for the State
through VC.
Sh. S.P. Sharma, Ld. Counsel for accused/
applicant through VC.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020 and 20.06.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority. Accordingly, present application is taken up.*

2. Reply filed by IO.

3. As per such reply inter alia there is no other criminal case as per record against the present accused.

4. Reply not received from Jail Superintendent.

5. Further (in view of direction by Hon'ble HC), **Jail Superintendent concerned** to file:

(i) Copy of **custody warrant** of present accused;

: 2 :

(ii) A **certificate regarding good conduct**, if any, of the accused during his custody period so far.

6. As such, issue notice to the Jail Superintendent accordingly.

7. **Counsel for accused is advised to collect the order online through electronic mode.**

8. **Put up for report, arguments and further appropriate orders on 04.07.2020 through VC.**

(Naveen Kumar Kashyap)

ASJ-04/Central/THC

01.07.2020

EXTENSION OF INTERIM BAIL APPLICATION

**State Vs Basu Dev S/o Sh. Gaya Prasad
FIR No. 130/2014
PS.: Kamla Market
U.S: 419,420,365,392,395,412,120B,34 IPC**

01.07.2020

Present: Mr. Manoj Garg, Learned Addl. PP for State through VC.
Mr. Monish Ahmad, learned counsel for accused through VC.

1. Vide this order, application filed by accused Basu Dev through counsel for extension of interim bail is disposed off.

Although the title of present application is for grant of regular bail or interim bail but during argument, it is stated by learned counsel for accused that accused has already granted interim bail vide order 29.05.2020 and he prays for extension of the same.

2. Arguments heard.

3. It is stated that accused is in JC for about last six years. That he is granted interim bail ten times earlier. It is further argued that his wife is suffering from various ailment and is under medical treatment which are even verified by the IO. It is further stated that he has two minor girls and he has no other source of income. That vide order dated 29.05.2020 learned court of Sh. Deepak Dabas, Ld. ASJ, Delhi granted interim bail for thirty days. As such, it is prayed that such interim bail be extended or he be granted interim bail on above mentioned grounds.

4. A reply dated 27.06.2020 filed by the IO. Further, an additional reply dated 30.06.2020 is filed by IO regarding verification of medical document of applicant wife, as per reply filed by Mavi Hospital Pvt. Ltd., annexed with such reply, one Smt. Rajni visited OPD of such hospital with pain in abdomen and she was prescribed seven days medication only. Further, present extension is strongly opposed by the state stating that for the reasons stated, he is already accommodated and he was granted interim bail on merit vide order dated 29.05.2020 and no ground is made out for extension of the same.

5. I have heard both the sides and gone through the record, including interim bail order dated 29.05.2020. On a bare reading of such order, it is clear that such interim bail was not granted in terms of criteria of Hon'ble High Court of Delhi regarding relaxed condition, but on merit on the facts of the present case. In fact the order of Hon'ble High Power Committee dated 18.05.2020 do not deal with the offences of present nature. In fact, same are dealt by order of Hon'ble High Power Committee dated 18.04.2020. thus, it is clear that such interim bail was not granted based on relaxed criteria but on the facts of the interim bail application.

It may further be noted that the case of the present accused is not covered by the order of Hon'ble High Court of Delhi in its Division Bench order dated 22.06.2020 in W.P.(C) 3080/2020 titled as "Court on its own motion v. Govt. of NCT of Delhi & Anr., as such interim bail on 29.05.2020 was not granted based on criteria of Hon'ble High Court but on merit.

Further, as per the report of concerned hospital dated 28.06.2020, problem of the wife does not appear to be

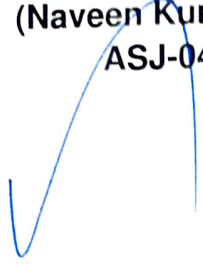
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serious as she only visited OPD and was given seven days medication. Even otherwise, no further leniency is required in the considered view of this court. As such, having regard to the nature of the case and he has already given opportunity to avail interim bail for 30 days, this court is not inclined to extend the same. **With these observations, present application is dismissed.**

6. Accordingly, accused is directed to surrender before the Jail Superintendent concerned in terms of original interim bail order dated 29.05.2020.

7. The present application stands disposed off accordingly. Both side are at liberty to collect the order dasti or through electronic mode.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
01.07.2020



BAIL APPLICATION

Suit No.: 372/2019

FIR No. : 213/2018

PS: Lahori Gate

STATE v. Raju Ram Nehra s/o Mr. Rattan Lal Ji Nehra

U/S: 395, 412, 120B, 34 IPC

01.07.2020.

Present: Sh. Manoj Garg, Addl. PP for the State through VC.
Mr. Alamine, learned counsel for accused through VC.

This is regular bail application filed on behalf of applicant Raju Ram Nehra through his counsel.

Reply filed by the IO.

Arguments in detail heard.

Put up for appropriate orders at 4:00 PM.

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

At 4:00 PM

Present: Sh. Manoj Garg, Addl. PP for the State through VC.

During the course of the arguments, it is claimed by the accused and as also mentioned in para 4 of the application that co-accused Vipin Sharma and Hari Ram are granted bail.

Put up for clarification on which such co-accused are granted bail, if any and the ground for the same and appropriate order for **02/07/2020** with case file.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
01.07.2020

EXTENSION OF INTERIM BAIL APPLICATION

State Vs Lalit
FIR No. 415/2015
PS.: Kotwali
U.S: 395,397,365,120B,412,201 IPC &
25,54,59 Arms Act

01.07.2020

Present: Mr. Manoj Garg, Learned Addl. PP for State through VC.
Mr. Jaspreet Singh, learned counsel for accused through VC.

1. **Vide this** order, application dated 30.06.2020 filed by accused Lalit through counsel for extension of interim bail is disposed off.
2. Arguments heard.
3. It is stated that he is in JC since 10.06.2015. That his wife has met with an accident and fractured her leg. That she also undergoing treatment for back pain. That fingers of the hand of the brother are recently cut in an accident. That there is attack of locust in country particularly in the state of U.P. As such, presence of applicant is required to safeguard his crop. That earlier he was granted interim bail on 20.05.2020. but his wife is not keeping well. Further, condition of the brother is still not good to take care of field work/crop. It is further stated that there are still spread of Corona virus. As such, it is prayed that his interim bail be extended for one more month.
4. A detailed dated 01.07.2020 filed by the IO. Present extension is strongly opposed by the state stating that for the

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reasons stated, he is already accommodated and he was granted interim bail on merit vide order dated 20.05.2020 and no ground is made out for extension of the same.

5. I have heard both the sides and gone through the record, including interim bail order dated 20.05.2020. On a bare reading of such order, it is clear that such interim bail was not granted in terms of criteria of Hon'ble High Court of Delhi regarding relaxed condition, but on merit on the facts of the present case, to take care of his brother and wife so that he can make appropriate arrangements for them while on such interim bail.

It may be noted that the case of the present accused is not covered by the order of Hon'ble High Court of Delhi in its Division Bench order dated 22.06.2020 in W.P.(C) 3080/2020 titled as "Court on its own motion v. Govt. of NCT of Delhi & Anr.

No further leniency is required in the considered view of this court. As such, having regard to the nature of the case and he has already given opportunity to avail interim bail for 45 days, this court is not inclined to extend the same. **With these observations, present application is dismissed.**

6. Accordingly, accused is directed to surrender before the Jail Superintendent concerned in terms of original interim bail order dated 20.05.2020.

7. The present application stands disposed off accordingly. Both side are at liberty to collect the order dasti or through electronic mode.

(Naveen Kumar Kashyap)
ASJ-04/Central/01.07.2020

INTERIM BAIL APPLICATION

State Vs. Sahil s/o Mr. Surender Kumar

FIR No. : 213/2018

PS: Lahori Gate

U/S: 395, 412, 34,120B IPC

01.07.2020

Present: Mr. Manoj Garg, Ld. Addl. PP for the State through VC
Mr. Virender Tyagi, learned Counsel for the Accused through VC.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020 and 20.06.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority, present application is taken up.*
2. Reply filed by IO.
3. Arguments heard.
4. In nutshell, this is 5th regular bail application with alternative prayer for interim bail. But during the course of arguments learned counsel for the accused only pressed for interim bail application.
5. In nutshell, it is prayed that applicant is the bread

State Vs. Sahil s/o Mr. Surender Kumar

FIR No. : 213/2018

PS: Lahori Gate

U/S: 395, 412, 34,120B IPC

: 3 :

suffering from any of the disease. As such, the case of the present accused does not fall under the relaxed criteria given by the Hon'ble High Court.

8. Even otherwise on merit, although mother of the accused is found to be suffering from certain medical condition and require surgery, but this court do not find the ground on merit stated by the accused sufficient to admit him to interim bail. Further, it is not the case that he is or anybody in his barrack is suffering from corona virus. Further, offence is very serious in nature. As such, this court is not inclined to grant interim bail to the present accused. With these observations, present interim bail application is dismissed.

9. Counsel for accused/applicant is at liberty to collect the order dasti or through electronic mode.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
01.07.2020.