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

**BAIL APPLICATION NO.: 1585/2020**

**State v. Salman Khan**  
**FIR No. 210/2020**  
**P. S. Sarai Rohilla**  
**U/s: 186,353,307,147,148,149,379,174A,34 IPC &**  
**25, 27 Arms Act**

**10.11.2020**

Present: Ms. Shubhra Goyal, Substitute Addl. PP for the State  
through VC.  
Sh. Suraj Prakash Sharma, Ld. Counsel for applicant  
through VC.

Vide this order, bail application u/s 439 Cr.PC dated 22.10.2020 filed by applicant through counsel is disposed of.

It is stated in the application that he is in JC since 11.06.2020; that he has been falsely implicated in the present case; that co accused Shahrukh, Ashqueen, Sadiqeen and Asif are already granted regular bail. That role assigned to the present accused is similar to such other accused persons, as such on parity also he be granted bail. It is further argued that there is no previous conviction record of the present accused and he is the only bread earner of the family; that charge sheet is already filed; that he is permanent resident of Delhi and the trial is likely to take time.

On the other hand, in reply filed by the IO and as argued by Ld. Substitute Addl. PP for the State it is stated that present FIR was registered on the complaint of SI Pankaj Thakran; that on 10.06.2020 at about 8:30 p.m. at Police Post Inder Lok a person namely Kale came inside the police post regarding a complaint of beating by Mohsin and his brother and also looting of cash from his shop; that such Mohsin and

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others were called but they started quarreling inside the police post but they were aggressive still and using filthy language. In the meanwhile relative, friends of Mohsin including the present accused arrived and gathered outside the police post and attacked the police officials with lathi, stones, fists and legs while such police officials were on official duty. Further, mobile phone of SI Pankaj was also stolen by them and many police officials sustained bodily injury. It is further stated that one of the most aggressive person was Mohsin, who was instigating other persons and he was aggressive till end. Further, another co-accused Naved @ Pilla was carrying fire arm but most of them run away and could not be caught but such Naved @ Pilla was caught at the entry gate of police post and such Naved @Pilla fired gun shot at the police party and some how police officials saved themselves. As such, present bail application is strongly 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 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.

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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-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 a matter of record that co-accused Shahrukh, Ashquin, Sadiqueen and Asif are already granted bail and role of the present accused is similar to that of those accused persons. Further , investigation is already complete and trial is likely to take time.

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

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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 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

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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 order through electronic mode. Copy of this order be sent to Jail Superintendent concerned through electronic mode.**

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**(NAVEEN KUMAR KASHYAP)  
ASJ-04(Central/Delhi/10.11.2020)**

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**Bail Application**

**Bail Matters No.:1678/2020  
State Vs Mohd. Jahid  
FIR No. : 265/2020  
PS: Sarai Rohilla  
U/S: 307, 341, 34 IPC**

**10/11/2020**

Present: Ms. Shubhra Goyal, learned Substitute Addl. PP for the State through VC.  
Mr. Birender Sangwan, learned counsel for accused through VC.

Vide this order, the second regular bail application dated 26/10/2020 under section 439 Cr.P.C. on behalf of accused filed through counsel is disposed of.

I have heard both the sides and have gone through the record.

The personal liberty is a priceless treasure for a human being. It is founded on the bed rock of constitutional right and accentuated further on human rights principle. The sanctity of liberty is the fulcrum of any civilized society. Deprivation of liberty of a person has enormous impact on his mind as well as body. Further article 21 Of the Constitution mandates that no person shall be deprived of his life or personal liberty except according to procedure established by law. Further India is a signatory to the International Covenant On Civil And Political Rights, 1966 and, therefore, Article 21 of the Constitution has to be understood in the light of the International Covenant On Civil And Political Rights, 1966. *Further* Presumption of innocence is a human right. Article 21 in view of its expansive meaning not only protects life and liberty ,but also envisages a fair procedure. Liberty of a person should not ordinarily be interfered with unless there exist cogent grounds therefor. The fundamental principle of our system of justice is that a person should not

**Bail Matters No.:1678/2020  
State Vs Mohd. Jahid  
FIR No. : 265/2020  
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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

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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-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of the

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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

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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 submitted on behalf of the accused that this is the second bail application. First bail application was filed before filing of chargesheet. Now the chargesheet is already filed. Accused is not required for the purpose of investigation; that he belongs to poor family; that he has been falsely implicated in this case; that his first application was dismissed on 15/09/2020.

On the other hand, in reply filed by the IO as also argued by the learned Addl.PP for the state, it is stated that injuries to the victim is opined as grievous as such the case was committed into 307 IPC; that victim Ashok was stabbed in stomach by knife. That public witnesses are yet to be

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examined and trial is at very initial stage. As such, present bail application is strongly opposed.

I have heard both the sides and gone through the record.

There are serious and specific allegations against the accused. His application was already rejected on 15/09/2020. Even thereafter, at present public witnesses are not yet examined. Therefore, having regard to the nature of offence, the manner in which carried out, stage of trial. As such, this court is not inclined to grant regular bail to the accused at this stage.

**With these observations present bail application is disposed of as dismissed. Further, both the sides are at liberty to collect the order through electronic mode. Copy of order be uploaded on the website. Further a copy of this order be sent to SHO / IO concerned. Further, copy of this order be also sent to concerned Jail Superintendent. Further, a copy of this order be also uploaded on the website.**

The observations made in the present bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.

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**(Naveen Kumar Kashyap)**  
**Additional Sessions Judge-04**  
**Central/THC/Delhi**  
**10/11/2020**

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

**Application No.: 1834/2020**  
**State Vs Gopal @ Golu**  
**FIR No.291/2020**  
**P. S. Lahori Gate**  
**U/s: 356, 379, 411, 34 IPC**

**10/11/2020**

Present: Ms. Shubhra Goyal, Learned Substitute Addl. PP for State is available through VC.

Mr. Lokesh Kumar Garg, learned counsel for accused through VC.

Vide this order, bail application u/s 439 Cr.PC dated 06/11/2020 filed by applicant through counsel is disposed off.

It is stated in the application that he is in JC since 10/10/2020; nothing has been recovered from the possession of the accused or at his instance; that investigation is complete and he is no more required for investigation; that allegations against the accused are only under section 411 IPC; that he is the only bread earner of his family and due to pandemic situation his family is entirely dependent upon him and there is no one to look after his family; that he is neither a convict nor habitual offender; As such, it is prayed that he be granted regular bail.

On the other hand, in reply dated 10/11/2020 filed by the IO, as also argued by learned substitute Addl.PP for the State it is stated that a case of gold chain snatching was registered by the complainant and the applicant alongwith his step son and other co-accused were arrested in this case; that co-accused after snatching the gold chain from complainant, gave it to applicant, applicant, thereafter, handed over the same to his son in law(Damaad) Bhavnes, who later on, mortgaged the same to IIFL Finance Sadar Bazar Thana and they shared the amount among themselves; that

**Application No.: 1834/2020**  
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**U/s: 356, 379, 411, 34 IPC**

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applicant is already declared BC of the area; that if applicant is released on bail, he may threaten or influence the witnesses. As such, present bail application is strongly 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 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.

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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).

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U/s: 356, 379, 411, 34 IPC

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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 since 10/10/2020. The allegations against the accused are u/s 411 IPC only. Further, as far as present accused is concerned, nothing remains to be recovered at his instance. In fact, the period for seeking police remand

Application No.: 1834/2020  
State Vs Gopal @ Golu  
FIR No.291/2020  
P. S. Lahori Gate  
U/s: 356, 379, 411, 34 IPC

: 6 :

is already over. As such, no purpose would be served by keeping such accused in JC. Trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case of present nature. In present case, no previous conviction or even involvement in criminal cases is placed on record by the IO.

In above facts and circumstances, such 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 Delhi without prior permission of the Trial Court concerned.*

*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 and further share his location through mobile phone once in everyweek till filing of chargesheet and thereafter as may be directed by the learned Trial Court.*

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:

Application No.: 1834/2020  
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: 7 :

*“..... 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.

**The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain through electronic mode. Copy of this**

: 8 :

**order be sent to concerned Jail Superintendent. Copy of this order be sent to IO / SHO concerned. Copy of order be uploaded on website.**

The observations made in the present bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.

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(NAVEEN KUMAR KASHYAP)  
ASJ-04(Central/Delhi)  
10.11.2020

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Application No.: 1834/2020  
State Vs Gopal @ Golu  
FIR No.291/2020  
P. S. Lahori Gate  
U/s: 356, 379, 411, 34 IPC

**Bail Matters No.: 985, 986, 987 & 988 /2020**  
**State Vs Kripal Singh, Angad Singh, Manjyot Singh & Sukhsharan Kaur**  
**FIR No.:188/2020**  
**PS: Rajinder Nagar**

**10/11/2020**

Present: Ms. Shubhra Goyal, learned Substitute Addl. PP for the State through VC.  
Learned counsel for applicants through VC

Arguments in detail heard.

Put up for orders at 4:00 PM.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

At 4:00 PM

No time is left as the undersigned has to attend the Orientation Programme  
from 4 PM to 6:00 PM.

Put up for orders on **12/11/2020 at 4:00 PM.**

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**ASJ-04/Central/10.11.2020**

**Bail Matters No.: 990 /2020**  
**State Vs Manoj Kumar Sharma**  
**FIR No.:191/2019**  
**PS: Lahori Gate**

**10/11/2020**

Present: Ms. Shubhra Goyal, learned Substitute Addl. PP for the State through VC.  
Learned counsel for applicant through VC

Arguments in detail heard.

Put up for orders at 4:00 PM.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

At 4:00 PM

No time is left as the undersigned has to attend the Orientation Programme  
from 4 PM to 6:00 PM today itself.

Put up for orders on **12/11/2020 at 4:00 PM.**

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

**Bail Matters No.: 1319 /2020**  
**State Vs Varun Aggarwal & others**  
**FIR No.:220/2020**  
**PS: Prasad Nagar**

**10/11/2020**

Present: Ms. Shubhra Goyal, learned Substitute Addl. PP for the State through VC.  
Learned counsel for applicants through VC

Arguments in detail heard.

Put up for orders at 4:00 PM.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

At 4:00 PM

No time is left as the undersigned has to attend the Orientation Programme  
from 4 PM to 6:00 PM today itself.

Put up for orders on **12/11/2020 at 4:00 PM.**

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

**Bail Matters No.: 700, 703, 704 & 705 /2020**  
**State Vs Vijeta Sarswat, Smt. Shakti Sharma,**  
**Sunil Sarswat and Surya Kant Sharma**  
**FIR No.:123/2020**  
**PS: Hauz Qazi**

**10/11/2020**

Present: Ms. Shubhra Goyal, learned Substitute Addl. PP for the State through VC.  
Complainant in person through VC.  
Learned counsel for the complainant is not available.  
Mr. Vivek Aggarwal, learned counsel for applicants through VC.  
IO is also available through VC.

It is stated by the IO that they have issued notices to present four accused only for joining. It is stated by the IO that investigation is still on qua accused persons.

Heard. Although FIR was registered in July,2020, but no notice or efforts are made so far surprisingly to investigate the matter qua husband, mother in law and father in law, who were prime suspect / accused as per complainant. The IO need to introspect , to say the least , about the manner in which investigation in a criminal case should proceed.

Having noted so, in any case, put up for further arguments, if any, qua present four applicants and order on the present bail application for **27/11/2020**.

IO to appear in person with case file with further status report regarding investigation qua these four applicants on the next date of hearing.

Interim order / protection, if any, to continue till the next date of hearing.

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**Bail Matters No.:1020/2020  
State Vs Inder Prakash & Anr  
FIR No.:368/2019  
PS: Sarai Rohilla**

**10/11/2020**

Present: Ms. Shubhra Goyal, learned Substitute Addl. PP for the State through VC.  
Complainant with counsel.  
None for the accused.  
IO SI Vikas Tomar not present.

Issue show cause notice to IO through DCP concerned. IO to appear with case file through VC on the next date of hearing.

Put up for arguments and appropriate orders for **25/11/2020**.

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At this stage, SI Vikas Tomar joined through VC. He stated that he has already filed reply on the last date of hearing i.e. 05/11/2020. As such, there is no need to issue fresh show cause notice to him. The same is recalled accordingly.

Put up on the date already fixed i.e. 25/11/2020.

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**Bail Matters No.:1572/2020**  
**State Vs Sumit Kumar**  
**FIR No.:188/2020**  
**PS: Rajinder Nagar**

**10/11/2020**

Present: Ms. Shubhra Goyal, learned Substitute Addl. PP for the State through VC.  
Mr. J.S. Kohli, learned counsel for the applicant through VC.  
IO SI Mahipal also present through VC.

It is stated by the counsel for the applicant that he joined the investigation.

It is also stated by the IO SI Mahipal that none of the 12 vehicles which is mentioned in ground-4 of original reply is recovered.

Still a different version is placed before the Court by the IO regarding custodial interrogation of the accused / applicant.

As such, issue notice to SHO to appear with IO on the next date of hearing. Further issue notice to complainant through IO for the next date of hearing.

Put up for further arguments and appropriate order for **25/11/2020**. In the meanwhile, interim protection to continue till the next date of hearing.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

**Bail Matters No.:1575/2020**  
**State Vs Jamshed**  
**FIR No.:24604/2020**  
**PS: Sarai Rohilla**

**10/11/2020**

Present: Ms. Shubhra Goyal, learned Substitute Addl. PP for the State through VC.  
IO Onkar Singh is present through VC.  
Mr. Zia Afroz, learned counsel for the accused through VC.

It is claimed by the IO that all the three accused persons jointly pointed out ,after the disclosure, and as such case property was discovered as a result of such pointing out by all the three accused persons in the present case.

Having regard to the scheme of Cr.PC and Indian Evidence Act particularly section 24 to 27, put up for further arguments in this regard as main learned Addl.PP for the State is on leave today ,and order on the present application for **11/11/2020**.

**Further SHO PS Sarai Rohilla is also directed to appear through VC to make submissions in this regard tomorrow. Issue notice to SHO PS Sarai Rohilla accordingly.**

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**Bail Matters No.:1602 /2020**  
**State Vs Prateek Ajmani & Anr**  
**FIR No.:420/2020**  
**PS: Karol Bagh**

**10/11/2020**

Present: Ms. Shubhra Goyal, learned Substitute Addl. PP for the State through VC.  
Complainant who is an advocate by profession in person through VC.  
IO / SI Mohit is also present through VC.  
Mr. Gurjit, learned counsel for the applicant through VC.

Further arguments in detail heard.

Put up for orders tomorrow i.e. **11/11/2020 at 4:00 PM**. In the meanwhile, interim protection to continue till the next date of hearing.

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**ASJ-04/Central/10.11.2020**

**Bail Matters No.:1603 /2020**  
**State Vs Himanshu Ajmani & Anr**  
**FIR No.:452/2020**  
**PS: Karol Bagh**

**10/11/2020**

Present: Ms. Shubhra Goyal, learned Substitute Addl. PP for the State through VC.  
Complainant who is an advocate by profession in person through VC.  
IO / SI Mohit is also present through VC.  
Mr. Gurjit, learned counsel for the applicant through VC.

Further arguments in detail heard.

Put up for orders tomorrow i.e. **11/11/2020 at 4:00 PM**. In the meanwhile, interim protection to continue till the next date of hearing.

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**ASJ-04/Central/10.11.2020**

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**Bail Matters No.:1613, 1616 & 1618/2020**  
**State Vs Mohd. Shamshad Qureshi, Nishad Begum and Sajid**  
**FIR No.:161/2020**  
**PS: I.P. Estate**

**10/11/2020**

Present: Ms. Shubhra Goyal, learned Substitute Addl. PP for the State through VC.

Complainant with IO through VC.

Learned counsel for complainant also through VC.

Learned counsel for applicants / accused through VC.

It is submitted by the IO that almost all the items which were mentioned in the list given in CAW Cell have been recovered in the present case. But complainant states that jewelry items are still not received.

Put up for further status report by the IO regarding such jewelry items and orders on the present application for **26/11/2020**. In the meanwhile, interim protection to continue till the next date of hearing.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

**Bail Matters No.:1638/2020**  
**State Vs Mohd. Zahid**  
**FIR No.:157/2020**  
**PS: Darya Ganj**

**10/11/2020**

Present: Ms. Shubhra Goyal, learned Substitute Addl. PP for the State through VC.  
Mr. Gulab Singh, learned counsel for the applicant through VC.

He submits that inadvertently, this application is filed before the Sessions Court instead of MM Court. He seeks permission to withdraw the present application to file before the concerned MM Court.

Heard. Allowed.

As such, the same is dismissed as withdrawn.

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**ASJ-04/Central/10.11.2020**

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**Bail Matters No.:517, 539, 540 & 541/2020**  
**State Vs V.K.Jain, Fazar Mohd.,**  
**Sukha @ Imran Khan & Ajit @ Aziz**  
**FIR No.: 84/2019**  
**PS: I.P. Estate**  
**U/s 420, 468, 471, 120B IPC**

**10/11/2020**

Present: Ms. Shubhra Goyal, learned Substitute Addl. PP for the State through VC.  
Mr.Pradeep Sharma, learned counsel for the applicants through VC.  
IO Inspector Ashok Kumar is present through VC.

These are four anticipatory bail applications which were filed before the Lockdown. There is some confusion regarding electronic / soft copy of such bail applications.

As such, put up for physical hearing day of this Court i.e. **27/11/2020** alongwith connected matters cancellation application moved by applicant V.K.Jain. Interim order to continue till the next date of hearing only.

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**ASJ-04/Central/10.11.2020**

**Bail Matters No.:1451/2020**  
**State Vs Ashok**  
**FIR No.: 165/2020**  
**PS: Rajinder Nagar**

**10/11/2020**

Present: Ms. Shubhra Goyal, learned Substitute Addl. PP for the State through VC.  
Mr. Vinay Kumar Sharma, learned counsel for accused through VC.  
Learned counsel for complainant through VC.  
IO SI Pooja is present through VC.

There is some connectivity issue with the counsel for the complainant.

As such, at his request, put up for further arguments and appropriate orders for tomorrow i.e.

**11/11/2020.**

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**ASJ-04/Central/10.11.2020**

**Bail Application No.: 1679/2020**

**State v. Sewa Ram  
FIR no.: 239/2020  
PS: Sarai Rohilla**

**10.11.2020**

Present: Ms. Shubhra Goyal, Substitute Addl. PP for State through VC.  
Sh. Gagandeep Gupta, Ld. Counsel for applicant/accused Sewa Ram  
through VC.

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

**Put up for arguments and orders on this application on 19.11.2020.**

**In the meanwhile, without commenting on the merit of the present  
bail application, IO is directed not to take any coercive action against the accused  
provided he join the investigation as and when so directed by IO including on  
12.11.2020 at 2 pm.**

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Additional Sessions Judge-04/Central  
10.11.2020**

**Bail Application No.: 1693/2020**

**State v. Harshad @ Happy  
FIR no.: 226/2020  
PS: Prasad Nagar**

**10.11.2020**

Present: Ms. Shubhra Goyal, Substitute Addl. PP for State through VC.  
Sh. Gaurav Arora, Ld. Counsel for applicant/accused Harshad @ Happy through VC.

Reply already filed. Copy of the same be supplied through electronic mode to counsel for accused/applicant during course of the day.

Further, issue notice to complainant through IO. Complainant is at liberty to appear through VC in person or through counsel.

**Put up for arguments and appropriate orders on 19.11.2020.**

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**Additional Sessions Judge-04/Central**  
**10.11.2020**

**Bail Application No.: 1695/2020**

**State v. Ravi @ Kangri  
FIR no.: 448/2020  
PS: Karol Bagh**

**10.11.2020**

Present: Ms. Shubhra Goyal, Substitute Addl. PP for State through VC.  
Sh. Amresh Kumar, Ld. Counsel for applicant/accused through VC.  
IO SI Vikas Tomar through VC.

Reply filed. Copy of the same be supplied through electronic mode to counsel for accused/applicant during course of the day.

**Put up for arguments and appropriate orders on this application on**

**21.11.2020.**

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Additional Sessions Judge-04/Central  
10.11.2020**

**Bail Application No.: 1829/2020**  
**Bail Application No.:1830/2020**

**State v. Seema Chawla and  
State v. Sanjiv Kumar Chawla  
FIR no.:231/2020  
PS:Rajinder Nagar**

**10.11.2020**

Present: Ms. Shubhra Goyal, Substitute Addl. PP for State through VC.  
IO Soni Lal also present through VC.  
Sh. Maninder Singh, Ld. Counsel for complainant alongwith  
complainant through VC.  
Sh. Varun Chawla, Ld. Counsel for applicant/accused through VC.

It is stated by IO that FIR recently registered and so far she has just issued notice to complainant u/s 91 Cr.P.C. It is further stated by IO that she is in process of issuing notice u/s 41A Cr.P.c. to accused side.

Reply already filed by IO. Copy of the same be supplied to learned counsel for accused as well as to the complainant. Further, a copy of this application be also supplied through electronic mode to learned counsel for complainant to his e-mail provided by him during the course of the day.

**Put up for arguments and appropriate orders on the present application on 21.11.2020.**

IO is expected to take into the account guidelines by Hon'ble Supreme Court in Arnesh Kumar case and other guidelines issued from time to time regarding arrest and non-arrest of the accused persons.

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**Additional Sessions Judge-04/Central  
10.11.2020**

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**Bail Application No.: 1835/2020**

**State v. Pankaj Nagar  
FIR no.:289/2020  
PS:Prashad Nagar**

**10.11.2020**

Present: Ms. Shubhra Goyal, Substitute Addl. PP for State through VC.  
Sh. Narender Kumar, Ld. Counsel for applicant/accused through VC.

This is 2<sup>nd</sup> regular bail application.

It is argued that chargesheet is already filed.

**Put up for further arguments and orders on 26.11.2020.**

Let TCR be also summoned. Chargesheet be also summoned.

Issue notice to Ahlmad of the trial court for next date of hearing.

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Additional Sessions Judge-04/Central  
10.11.2020**

**M. CrI. : 166/2020**

**State v. Salman @ Sonu  
FIR no.: 11109/2020  
PS: Rajinder Nagar**

**10.11.2020**

Present: Ms. Shubhra Goyal, Substitute Addl. PP for State through VC.  
Ms. Tabassum, Ld. Counsel for applicant/accused through VC.

This is an application for modification of bail bond condition thereby reducing from two sureties to one surety.

Such bail order was passed on 19.10.2020 i.e. less than one month ago. Having regard to the guidelines issued by Hon'ble Supreme Court and Hon'ble High Court and a period since bail was granted coupled with nature of offence, this court is not inclined to reduce such bail bond condition at present.

**With these observations, present application is dismissed.**

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Additional Sessions Judge-04/Central  
10.11.2020**

**Bail Application No.: 1571/2020**

**State v. Dharmender  
FIR no.: 256/2020  
PS: Prashad Nagar**

**10.11.2020**

Present: Ms. Shubhra Goyal, Substitute Addl. PP for State through VC.  
Complainant in person through VC.  
Ms. Lakshmi Raina, Ld. Counsel from DCW for complainant through VC.  
IO is also present through VC.  
Sh. Bijender Sharma, Ld. Counsel for accused through VC.

Arguments in detail heard from all the sides on this anticipatory bail application. During course of arguments, complainant submitted that she wants to place on record certain documents related to alleged poisoning aspect. She is at liberty to file same before next date of hearing.

**Put up for further arguments, if any and order on physical day on 20.11.2020.**

Under these circumstances, **without commenting on the merit of the case, IO is directed not to take any coercive action against the accused till next date of hearing.**

**At request of learned Substitute Addl. PP for the state, IO to file further status report regarding such allegations on poisoning aspect also.**

**NAVEEN KUMAR  
KASHYAP**  
**(NAVEEN KUMAR KASHYAP)**  
**Additional Sessions Judge-04/Central**  
**10.11.2020**

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**State Vs Pooja & others**  
**(Application of Munni @ Moni)**  
**FIR No 292/2014**  
**P. S Rajinder Nagar**

**10.11.2020**

**This court is also discharging bail roster duty.**

Present: Ms. Shubhrda Goyal, learned Substitute Addl.PP for State through VC.

Mr. Chirag Khurana, learned counsel for applicant through VC.

Put up for consideration / appropriate order having regard to the latest writ petition No.  
3080/2020.

Put up for **17/11/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

**State Vs Pooja & others**  
**(Extension Application of Munni @ Moni)**  
**FIR No 292/2014**  
**P. S Rajinder Nagar**

**10.11.2020**

**This court is also discharging bail roster duty.**

Present: Ms. Shubhrda Goyal, learned Substitute Addl.PP for State through VC.

Mr. Chirag Khurana, learned counsel for applicant through VC.

Put up for consideration / appropriate order having regard to the latest writ petition No.  
3080/2020.

Put up for **17/11/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

**State Vs Sunil @ Kalu**  
**(Extension of interim bail of Ravi Dhika)**  
**FIR No 303/2014**  
**P. S.Subzi Mandi**

**10.11.2020**

**This court is also discharging bail roster duty.**

Present: Ms. Shubhrda Goyal, learned Substitute Addl.PP for State through VC.

None for the applicant / accused.

Put up for consideration / appropriate order having regard to the latest writ petition No. 3080/2020.

Put up for **17/11/2020**.

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Date: 2020.11.10  
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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

**State Vs Bablu Mathur & others  
(Application of Ankit Aggarwal)  
FIR No 221/2015  
P. S. Karol Bagh**

**10.11.2020**

**This court is also discharging bail roster duty.**

Present: Ms. Shubhrda Goyal, learned Substitute Addl.PP for State through VC.

Mr. Tushar, learned counsel for the applicant / accused through VC.

Put up for consideration / appropriate order having regard to the latest writ  
petition No. 3080/2020.

Put up for **17/11/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

**State Vs Padam Singh**  
**(Extension application of Padam Singh)**  
**FIR No 55/2018**  
**P. S Kotwali**

**10.11.2020**

**This court is also discharging bail roster duty.**

Present: Ms. Shubhrda Goyal, learned Substitute Addl.PP for State through VC.

Learned counsel for the applicant / accused through VC.

Put up for consideration / appropriate order having regard to the latest writ petition No.  
3080/2020.

Put up for **17/11/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

**CR No. 253/2020**  
**Ram Kwar Garg Vs M/s SMC Global Securities Ltd.**

**10.11.2020**

**This court is also discharging bail roster duty.**

**Fresh revision is received by way of assignment. It be checked and registered separately.**

Present: Revisionist Ram Kwar Garg is present in person in Court.

At his request, put up for consideration / appropriate orders for **20/11/2020**.

**NAVEEN  
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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

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Date: 2020.11.10  
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**CR No. 254/2020**  
**Ram Kawar Garg Vs M/s SMC Global Securities Ltd.**

**10.11.2020**

**This court is also discharging bail roster duty.**

**Fresh revision is received by way of assignment. It be checked and registered separately.**

Present: Revisionist Ram Kawar Garg is present in person in Court.

At his request, put up for consideration / appropriate orders for **20/11/2020**.

**NAVEEN  
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KASHYAP**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

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Date: 2020.11.10  
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**APPLICATION FOR EARLY HEARING OF SUDHIR PAL**

**\_ State v. Ajay Pal  
FIR No. : 678/2015  
PS: Subzi Mandi  
U/S: 302 IPC**

**10.11.2020**

**Undersigned is also discharging bail roster duty.**

Present: Ms. Shubhra Goyal , Substitute Addl. PP for the State through VC.  
Sh. Hans Raj, Ld. Counsel for applicant/accused through VC.

**Put up for arguments on regular bail application on physical hearing day  
on 12.11.2020.**

**NAVEEN  
KUMAR  
KASHYAP  
(Naveen Kumar Kashyap)**

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**ASJ-04/Central/10.11.2020**

**BAIL APPLICATION**

**\_ State v. Gaurav Chauhan  
FIR No. : 199/2009  
PS: Kashmere Gate  
U/S: 364A,506,120B IPC &  
25 Arms Act**

**10.11.2020**

**Undersigned is also discharging bail roster duty.**

Present: Ms. Shubhra Goyal , Substitute Addl. PP for the State through VC.  
Sh. Rajesh Kaushik, Ld. Counsel for applicant/accused through VC.

Arguments in detail heard on the bail application of Gaurav Chauhan.

**Put up for orders/clarifications, if any on physical hearing day on**

**12.11.2020.**

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Date: 2020.11.10 20:50:53  
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**(Naveen Kumar Kashyap)**

**ASJ-04/Central/10.11.2020**

**BAIL APPLICATION OF ANKUR SINGH**

**\_ State v. Gaurav Chauhan  
FIR No. : 199/2009  
PS: Kashmere Gate  
U/S: 364A,506,120B IPC &  
25 Arms Act**

**10.11.2020**

**Undersigned is also discharging bail roster duty.**

Present: Ms. Shubhra Goyal , Substitute Addl. PP for the State through VC.  
Sh. Rajesh Kaushik, Ld. Counsel for applicant/accused through VC.

Part arguments heard on the bail application of Ankur Singh.

**At request, put up for orders/clarifications, if any on physical hearing day  
on 12.11.2020.**

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**(Naveen Kumar Kashyap)**

**ASJ-04/Central/10.11.2020**

**CA.: 59/2020**  
**Rohit @ Machhi v. State of Delhi**

**10.11.2020**

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

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

**Undersigned is also discharging work of Bail Roster duty.**

Present: Sh. S.N. Shukla, LAC for Appellant through VC.  
Ms. Shubhra Goyal, substitute Addl. PP for state/respondent through VC.

Further arguments heard.

Regular Addl. PP for the state is on leave today.

**Put up for further arguments from prosecution side on 12.11.2020.**

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KASHYAP  
(Naveen Kumar Kashyap)  
ASJ-04/Central/10.11.2020

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Date: 2020.11.10 20:52:05  
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**CA.: 132/2020**  
**Samay Chand v. State of Delhi**

**10.11.2020**

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

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

**Undersigned is also discharging work of Bail Roster duty.**

Present: Ld. Counsel for Appellant through VC.  
Ms. Shubhra Goyal, substitute Addl. PP for state/respondent through VC.

Further arguments heard.

Regular Addl. PP for the state is on leave today.

**Put up for further arguments from prosecution side and appropriate orders for 20.11.2020.**

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Date: 2020.11.10  
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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

**SC: 27195/2016**  
**State v. Ishwar etc.**  
**FIR NO: 162/2011**  
**PS: Kotwali**

**10.11.2020**

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

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

In the present case, last regular date of hearing was 17.04.2020,09.06.2020,07.08.2020 and 07.10.2020.

On 07.10.2020, matter was adjourned for 10.11.2020.

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

**Undersigned is also discharging work of Bail Roster duty.**

Present: Ms. Shubhra Goyal, substitute Addl. PP for state/respondent through VC.  
None for accused.

No adverse order is passed against the accused.

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

**Put up for PE in terms of previous order on 22.03.2021.**

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Date: 2020.11.10 20:52:48  
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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

**SC: 28098/2016**  
**State v. Shiv Prasad @ Amit etc.**  
**FIR NO: 298/2012**  
**PS: Sarai Rohilla**

**10.11.2020**

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

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

**Undersigned is also discharging work of Bail Roster duty.**

Present: Ms. Shubhra Goyal, substitute Addl. PP for state/respondent through VC.  
None for accused.

No adverse order is passed against the accused.

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

**Put up for consideration/further appropriate orders on 20.11.2020.**

NAVEEN  
KUMAR  
KASHYAP  
(Naveen Kumar Kashyap)  
ASJ-04/Central/10.11.2020

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Date: 2020.11.10  
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**SC: 27799/2016**  
**State v. Kailash Kumar etc.**  
**FIR NO: 69/2012**  
**PS: Sarai Rohilla**

**10.11.2020**

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

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

**Undersigned is also discharging work of Bail Roster duty.**

Present: Ms. Shubhra Goyal, substitute Addl. PP for state/respondent through VC.  
None for accused.

No adverse order is passed against the accused.

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

**Put up for consideration/further appropriate orders on 20.11.2020.**

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

**10.11.2020**

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

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

In the present case, last regular date of hearing was 06.05.2020,04.07.2020 and 04.09.2020

On 04.09.2020, matter was adjourned for 10.11.2020.

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

**Undersigned is also discharging work of Bail Roster duty.**

Present: None for Appellant.

Ms. Shubhra Goyal, substitute Addl. PP for state/respondent through VC.

**Put up for purpose fixed on 20.11.2020.**

NAVEEN KUMAR  
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Date: 2020.11.10 20:53:49  
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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

**10.11.2020**

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

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

**Undersigned is also discharging work of Bail Roster duty.**

Present:       None for Appellant.  
                  Ms. Shubhra Goyal, substitute Addl. PP for state/respondent no.1 through VC.  
                  Sh. O.P. Bharti, proxy Counsel for respondent no.2 through VC.

**Put up for purpose fixed on 20.11.2020.**

NAVEEN  
KUMAR  
KASHYAP

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/10.11.2020**

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

**Bail Application No.:1663/2020**

**Bail Application No.: 1673/2020**

**State v. Sharad Chandra Shrivastava**  
**State v. Shiv Shankar Mishra**

**FIR No. : 186/2019**

**P. S: Kamla Market**

**U/s: 364A,342,506, 34 IPC**

**10.11.2020.**

**This court is also discharging bail roster duty.**

Present: Ms. Shubhra Goyal, Substitute Addl. PP for State through  
VC.

Mr. Chandra M. Maini, Ld. Cousnel for accused/applicant  
through VC.

Vide this order, these two separate regular bail applications u/s 439 Cr.PC both dated 02.11.2020 filed by accused Sharad Chandra Srivastava and Shiv Shankar Mishra through counsel is disposed of.

In nutshell, it is argued on behalf of the accused that offence u/s 364A IPC is not made out at all. In any case, at best the allegations amounts to offence under section 365 IPC as per the prosecution. It is further stated alongwith such case laws that there is no ingredients of ransom asked from the victim. At best, as per the allegations of the prosecution in order to claim back the amount due, the accused threatened allegedly and confined the victim. The victim was all the time was having his mobile phone and he was making calls to his family members and even made call to the police during such alleged confinement. As such, it is stated that no question of invoking section 364A IPC. It is further stated that victim is liable to pay money to the accused side and in order not to pay he has filed present case against the

accused. As such, it is prayed that they be granted regular bail.

On the other hand, in reply filed by the IO, as also argued by learned substitute Addl.PP for the State that victim was rescued by opening the lock and the door. After rescuing, he stated that he purchased goods from M/s Jackson and Company for which there was amount due of Rs. 1,03,000/-, at the instance of owner Mahesh Gupta, the present two accused persons came to his house and asked about such money. The complainant asked for some more time to pay the same but they forcefully took him to such company shop at shop on. 47, G.B. Road, Delhi where Ajay Thakur was present and Mahesh Gupta also arrived and they stated that if such outstanding money is not paid, they would not allow him to go home and such Mahesh Gupta and Ajay Thakur kept him captive. That such complainant made mobile call from his number to his son and also to the police. That these two accused persons do not have any criminal record. That chargesheet is already prepared. As such, present bail application is opposed.

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 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

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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-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.

I have heard both the sides and gone through the record.

In the present case, the amount of Rs. 1.07 lacs which is demanded by the accused side from the victim is already due against the goods supplied by the accused side to the complainant. As such, the employer of such two accused persons/applicants was claiming back such lawful dues only from the complainant. Further, the present two applicants were working only as employee of such Mahesh Kumar Gupta and Ajay Thakur and acting on their instructions. Still it appears that instead of arresting the main accused Mahesh Kumar Gupta and Ajay Thakur, SHO/IO concerned chose to arrest only to the present two applicants/accused persons and for the reasons best known to the SHO/IO did not choose to arrest such main accused Mahesh Kumar Gupta and Ajay Thakur.

**As such, a copy of this order be sent to DCP concerned for his information through Naib Court of this court.** Naib court of this court to file acknowledgment of the copy received by DCP concerned within two weeks.

In any case, as far as present two applicants are concerned, they were arrested on 28.10.2020. As such, period to seek PC remand is also over as far as these two accused/applicants are concerned. Further, it may be noted that there is fundamental presumption of innocence in any criminal case in India i.e. an accused is presumed innocent unless proved guilty. In present case, there is no other criminal involvement found of the

present accused.

In above facts and circumstances, both such accused / applicants are granted bail subject to furnishing of **personal bond in the sum of Rs. 20,000/- with one 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;*
- 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 is clarified that in case if the applicants/ 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 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;*

: 9 :

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.

**The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain order through electronic mode. Copy of this order be also sent to Jail Superintendent concerned through electronic mode.**

**NAVEEN KUMAR**  
**KASHYAP**  
**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central/Delhi)**  
**10.11.2020**

Digitally signed by  
NAVEEN KUMAR KASHYAP  
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