

BAIL APPLICATION

**FIR No. :34387/17
PS: Sarai Rohilla
STATE v. Harun
U/S: 392, 397, 34 IPC**

03.07.2020.

Present: Sh. Pawan Kumar, Addl. PP for the State through
VC.
None is present on behalf of surety.

Further time sought by the IO / SHO to verify the
surety bond.

Put up for **04/07/2020 at 2:00 PM.**

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
03.07.2020

BAIL APPLICATION

SC No.: 28312/2016

FIR No. : 964/2015

PS: Sarai Rohilla

STATE v. Mohd. Naved @ Peela

U/S: 302, 34 IPC

03.07.2020.

Present: Sh. Pawan Kumar, Addl. PP for the State through VC.
Mr. Anil Dutt Sharma, learned counsel for non applicant / accused through VC.
SHO PS Sarai Rohilla through VC.

Further arguments heard in detail.

Put up for further arguments / clarification for

07/07/2020.

(Naveen Kumar Kashyap)

ASJ-04/Central/THC

03.07.2020

BAIL APPLICATION

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

03.07.2020.

Present: Sh. Pawan Kumar, Addl. PP for the State through VC.

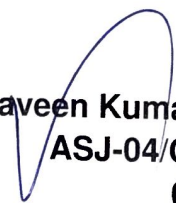
Mr. Mohit Sharma, learned counsel for the applicant through VC.

Reply filed by the IO. But in this case, inter-alia, section 354 IPC is also involved.

As such, issue notice to complainant through IO for the next date of hearing. Further such complainant / victim is at liberty to address arguments through video conferencing. IO is directed to provide all necessary assistance / infrastructure to complainant / victim for such arguments through video conferencing or otherwise. Notice be issued today itself.

Put up for arguments, appropriate order for

07/07/2020.


**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
03.07.2020**

BAIL APPLICATION

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

03.07.2020.

Present: Sh. Pawan Kumar, Addl. PP for the State through VC.
Mr. Mohit Sharma, learned counsel for the applicant through VC.

Reply filed by the IO. But in this case, inter-alia, section 354 IPC is also involved.

As such, issue notice to complainant through IO for the next date of hearing. Further such complainant / victim is at liberty to address arguments through video conferencing. IO is directed to provide all necessary assistance / infrastructure to complainant / victim for such arguments through video conferencing or otherwise. Notice be issued today itself.

Put up for arguments, appropriate order for

07/07/2020.


**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
03.07.2020**

BAIL APPLICATION

FIR No. :478/2018

PS: Burari

STATE v. Sanjay Tiwari & Ors (Amar Tiwari)

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

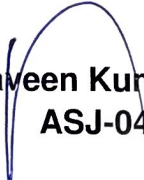
03.07.2020.

Present: Sh. Pawan Kumar, Addl. PP for the State through VC.
Mr. Avdhesh Kumar, learned counsel for applicant through VC.
Complainant not served.

Let fresh notice be issued to the complainant through electronic mode from the court as well as through IO / SHO concerned for the next date of hearing.

Arguments in detail heard from the counsel for the accused as well as from the learned Addl.PP for the State.

Put up for further arguments, clarification and appropriate order on this bail application for accused Amar Nath for **08/07/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/THC
03.07.2020

Anticipatory Bail

State vs Tarun s/o Mr. Ravinder Singh
FIR No. Not Known
P. S. Pahar Ganj
U/s: Not Known

03.07.2020

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

Vide this order, present bail application u/s 438 Cr.PC filed on 25.06.2020 for anticipatory bail by accused / applicant Tarun filed through his counsel is disposed of.

In nut shell, it is stated by the accused that applicant is permanent resident of the address mentioned in the present application since his childhood. That he was in courtship with one Menka daughter of Rakesh Kumar for the last about 10 years and they wanted to marry each other. That such Menka stepped out of her parental house on 22/06/2020 with the intention to marry applicant and they came to Tis Hazari Court complex and they prepared necessary documents regarding their marriage and solemnized their marriage at Arya Samaj Mandir on 22/06/2020 and even a marriage certificate was issued. That thereafter such Menka wife of accused intimated about their marriage to her mother Lalita. But such mother got furious and threatened the applicant with dire consequences as such Menka / wife of accused even addressed an e-mail to

State vs Tarun s/o Mr. Ravinder Singh
FIR No. Not Known
P. S. Pahar Ganj
U/s: Not Known

commissioner of police with relevant documents of marriage. It is further claimed that still police official of PS Pahar Ganj are visiting time and again the house of the applicant with the intention to arrest him on the basis of false and frivolous lodged by above mentioned culprits. Further, such culprits are roaming around the house in order to harm the present applicant. As such, it is prayed that IO / SHO be directed to release the applicant on bail in the event of arrest.


In reply dated 01/07/2020 filed by SI Mahender Singh. Such facts as mentioned in the application are more or less reaffirm. It is further stated that no complaint from the relative / mother of Menka or from the relative of present applicant is registered in the PS Pahar Ganj. But earlier a PCR call with DD entry 02 on 24/06/2020 was received at the instance of mother of Menka, in which such mother claimed that her daughter Menka went to South Delhi to attend dance class and have not come back to the house. Such reply further acknowledge the e-mail of such Menka to the commissioner of police regarding her marriage with the present applicant. Further during the course of arguments, photographs of marriage, school certificate and Adhaar card copy of such Menka is placed on record in which her date of birth is 06/04/1999. As such, she is major at the time of such marriage. Under these circumstances, no offence is made out because of such marriage by the applicant with such Menka. In any case, it is submitted that as per record of their police station no case is registered against the present applicant.

State vs Tarun s/o Mr. Ravinder Singh
FIR No. Not Known
P. S. Pahar Ganj
U/s: Not Known

and again
is further

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.

But, the liberty of an individual is not absolute. The Society by



State vs Tarun s/o Mr. Ravinder Singh
FIR No. Not Known
P. S. Pahar Ganj
U/s: Not Known

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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.

Thus, as per the report of the police station concerned, no action / 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. Further a copy be sent to the SHO concerned.

(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi/03/07/2020)

: 1 :

INTERIM BAIL APPLICATION

SC No.: 04/2020(New Number)
State Vs. Rakesh s/o Shankar Lal
FIR No. : 236/2019
PS: Subzi Mandi
U/S: 307, 34 IPC

Dated:03.07.2020.

Present: Mr. Pawan Kumar,Ld. Addl. PP for the State through VC.
Mr. Shivender Singh, Ld. 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 and 18.05.2020 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 the IO as well as Jail Superintendent concerned. Further, trial court record perused.

3. Arguments heard.

4. It is stated that accused is in JC since 10/10/2019. It is further claimed that he falls under the relaxed interim bail criteria passed by the Hon'ble High Court.

5. **Further, a copy of certificate of conduct** as well as copy **of custody warrant** is also received from Jail Superintendent Concerned. **As per report from jail supdt. concerned ,conduct of the accused during custody in jail is satisfactory.**

6. But as per the report already on record, such accused Rakesh has as many as five other criminal involvement involvement / FIR against him.

7. In view of IO and direction by Hon'ble High Court of

State Vs. Rakesh s/o Shankar Lal
FIR No. : 236/2019
PS: Subzi Mandi
U/S: 307, 34 IPC

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Delhi, case of the accused is not covered under directions as passed by Hon'ble High Court, as mentioned above, as there is other criminal involvement of the present accused.

As such, in the above position, facts and circumstances of present case and the directions by Hon'ble High Court, applicant/accused can not be given benefit of interim bail for a period of 45 days *under directions as passed by Hon'ble High Court, as mentioned above. Accordingly the present application is dismissed.*

8. 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 Jail Superintendent concerned.*

9. *before parting, it is needless to say that present accused is at liberty to move interim bail application on merit, as also noted by Hon'ble High Court in its order dated 18/05/2020, if so advised.*

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
Central District/03.07.2020

INTERIM BAIL APPLICATION

SC No. 29027/2016
State Vs. Aryan Dass @ Bhagi Dhar Dass s/o Dalip
Dass
FIR No. : 518/2016
PS: Sarai Rohilla
U/S: 302 IPC

Dated:03.07.2020.

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State
through VC
Mr. Dalip Mishra, Ld. 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. Reply filed by the IO.
3. Arguments heard.
4. Present application dated 26.06.2020 is filed through counsel. It is stated that accused is in JC since for more than **two years** (which fact is now even verified by IO in his report).
5. **Further, a report regarding satisfactory / good conduct of the accused is also filed by Jail**

Superintendent Concerned as well as copy of **custody warrant** is now filed by Jail Authority.

6. Further, a report is filed by IO/SHO concerned. It is further stated that there is no previous conviction / involvement record of such accused. **Further, it is stated that offences alleged against accused is under section 302 IPC.**

7. In view of report by jail supdt concerned , reply given by IO and direction by Hon'ble High Court of Delhi, case of the accused is covered under directions as passed by Hon'ble High Court, as mentioned above. Further, accused is in JC since more than **two years** at present.

As such, in the above position, facts and circumstances of present case and the directions by Hon'ble High Court, applicant/accused is admitted to interim bail for a period of 45 days from the date of release on furnishing personal bond **in the sum of Rs. 10,000/- to the satisfaction of the Jail Superintendent concerned**. After completion of the interim bail period applicant shall surrender before concerned Jail Superintendent. Necessary intimation be sent to concerned Jail Superintendent accordingly.

7.1. In the facts and circumstances of present case and the reply filed by the IO/SHO following conditions are also imposed on present accused for such interim bail :

- i)** Applicant shall not flee from the justice;
- ii)** Applicant shall not tamper with the evidence;
- iii)** Applicant shall not threaten or contact in



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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/her mobile number to the IO;

vii) Applicant shall mark his /her 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;

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.

ix) Applicant shall keep his / her such mobile number 'Switched On' at all the time , particularly between 8 am to 8 pm everyday.

8. 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 by electronic mode through Prosecution Branch /Concerned nodal officer of Delhi Police.**

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
Central District/03.07.2020

SC No. 29027/2016
State Vs. Aryan Dass @ Bhagi Dhar Dass s/o Dalip Dass
FIR No. : 518/2016
PS: Sarai Rohilla
U/S: 302 IPC

: 1 :

Parole Granted

FIR No.113/2018

PS: Pahar Ganj

State v. Ritesh @ Kapil s/o Joginder

U/S: 326A IPC

03.07.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State through VC.
Sh.P.K. Garg, counsel for accused/ applicant through VC.
Victim / complainant in person.

Vide this order, interim bail application moved on behalf of such accused dated 01/06/2020 is disposed of.

In nutshell it is submitted that he is in judicial custody since 06/05/2018; that he was adopted and was living with one Kapil with family as his real brother. That such Kapil has expired on 30/06/2020. That present accused could not attend the cremation of his such brother. As such, it is prayed that he wants to participate in other last rites / Phool Chugna of his brother. As such, it is prayed that he be granted interim bail for 45 days.

On the other hand, such interim bail is strongly opposed by the State as well as by the victim. Having regard to the nature of offence of the present case, it is further stated by the complainant that she is still under threat from the accused side. It is further argued that there are number of cases registered against accused. But the factum of death of Kapil and that present accused was adopted by his family is

Contd..../-

not denied but it is stated that accused family and such Kapil family is residing separately since long. Further, no date for such last rites / Phool Chugna is given in the present application. That accused wants to come out of the jail on one ground or the other.

I have heard both the sides and gone through the record including the evidence recorded so far. I find force in the argument of Ld. Addl. PP. Having regard to totality of facts and circumstances, this court is not inclined to grant the interim bail as prayed in the present application. But *such accused is hereby granted custody parole for four hours (which is to be availed on any one day, within 7 days from today) to the accused excluding travelling time.* Further needless to add that all SOP relating to social distancing and other norms prescribed by government and Jail authority would be complied, during such custody parole.

6. A copy of this order be sent to concerned Jail Superintendent with directions to make necessary arrangements **for visit of the applicant/accused accordingly.**

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 complainant.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
03.07.2020

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

State Vs. Jitesh @ Lovely s/o Jagdish
FIR No.:105/2020
P.S.:Pahar Ganj
U/s 380/411/34 IPC

03/07/2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Mr. Sunil Gautam, Ld. Counsel for applicant/accused through VC.

Vide this order, present first bail application u/s 438 Cr.PC dated 26/06/2020 filed by accused/applicant is disposed of.

In nutshell, it is stated in the present anticipatory bail application that present accused is not named in the FIR and is falsely implicated in the present case. That investigation of the present case is already complete and no purpose would be served by arresting the accused. That he is the sole bread earner of his family. Further there is pandemic situation in the country due to corona virus. That police officials are harassing him and visiting his house. That he has not committed any offence. That he shall join investigation and appear in court as and when required. That he has roots in the society. As such, he be released on bail in the present case.

On the other hand, it is argued on behalf of the state, as also mentioned in detail reply dated 29/06/2020, that present accused / applicant is absconding in the present case and never cooperated with the investigation,

State Vs. Jitesh @ Lovely s/o Jagdish
FIR No.:105/2020
P.S.:Pahar Ganj
U/s 380/411/34 IPC



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that part of case property is yet to be recovered. That custodial interrogation of As such, it is stated that under these circumstances, he should not be granted bail.

I have heard both the sides and gone through the record including the trial court file.

I find force in the arguments of learned Addl.PP for the State. As per the allegations and investigation carried out so far, 250 mobile phones were stolen. Some of them are recovered from the co-accused and recovery from the present accused is to be affected and his custodial interrogation is required for that purpose. Under these circumstances, this court is not inclined to grant the relief sought in the present application. With these observations, present application is disposed of.

A copy of this order be given dasti to both the sides. Further, a copy of this order be also put in the trial court record, for ready reference of the Ld. Ilaka Magistrate. Further a copy be sent to IO / SHO concerned.


(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi/03/07/2020)

BAIL APPLICATION

FIR No. : 316/2019

PS: Pahar Ganj

STATE v. Shabir Dandoo s/o Ali Dandoo

U/S: 420, 376, 354, 506, 34, 174A IPC

03.07.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Mr. Rajeev Sirohi, learned counsel for accused through VC.
Mr. Rakesh Raina, learned counsel for complainant through VC.
Inspector Reeta from DIU, IO of the case is also present.

Arguments heard.

Put up for orders at 4:00 PM.

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

At 4:00 PM

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.

It is already 5:00 PM.

No time left. Put up for order / clarification, if any, for 04/07/2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
03.07.2020

BAIL APPLICATION

FIR No. : 316/2019
PS: Pahar Ganj
STATE v. Farooq Dandoo
U/S: 420, 376, 354, 506, 34, 174A IPC

03.07.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Mr. Rajeev Sirohi, learned counsel for accused through VC.
Mr. Rakesh Raina, learned counsel for complainant through VC.
Inspector Reeta from DIU, IO of the case is also present.

Arguments heard.

Put up for orders at 4:00 PM.

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

At 4:00 PM

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.

It is already 5:00 PM.

No time left. Put up for order / clarification, if any, for 04/07/2020.

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

03.07.2020

INTERIM BAIL APPLICATION

State Vs. Subhash Singh s/o Mr. Ram Singh
FIR No. : 391/2014
PS: Kashmere Gate
U/S: 392, 394, 395, 412, 224, 511, 34 IPC

03.07.2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State
through VC
Mr. M. Naushad, learned Counsel from 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. Vide this order interim bail application dated 01/07/2020 filed by accused through counsel is disposed of.
3. Reply filed by IO.
4. Arguments heard.
5. In nutshell, it is prayed that there is no other criminal case against the accused; that he was not identified by the complainant and such complainant died later on; that he is in

JC since long; It is further claimed that accused falls under the relaxed interim bail criteria as given by Hon'ble High Court dated 07/04/2020. As such, it is prayed that he be granted interim bail on appropriate terms.

6. On the other hand, a reply dated 03/07/2020 filed by IO. It is further argued by learned Addl. PP for the state that present offence is very serious in nature and offences charged against the accused are punishable upto imprisonment for life. That he is involved in 7 such serious offences. That he does not have any permanent address. As such, present bail application is strongly opposed.

7. The type of cases/offences with which accused is charged are discussed by Hon'ble High Court in its meeting **dated 18.04.2020**. For the present type of offences, a relaxed criteria for interim bail is recommended by Hon'ble High Court on such date but it was further subject to such accused is suffering from HIV, cancer, chronic kidney dysfunction (requiring dialysis), Hepatitis B or C, Ashtma and T.B.

It is not the case of accused that he himself is 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, no sufficient ground raised to grant him interim bail. Further, it is not the case that he is or anybody in his barrack in jail 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.



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9. Counsel for accused/applicant is at liberty to collect the order through electronic mode. Copy of this order be sent to Jail Superintendent concerned.

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

: 1 :

Bail Application

State Vs Arman s/o Mohd. Sabbir
FIR No. 131/2020
PS.: Sadar Bazar
U/s: 376, 328 IPC

03.07.2020

Present: Mr. Pawan Kumar Learned Addl. PP for State through VC.
Mr. Shazed, learned counsel for the applicant / accused in person.
Victim in person.
Ms. Lakshmi Raina, DCW, learned counsel for complainant through VC.

Vide this order, the bail application under section 439 Cr.P.C. on behalf of accused dated 02/07/2020 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 therefor. The fundamental principle of our system of justice is that a person should not be deprived of his liberty except for

State Vs Arman s/o Mohd. Sabbir
FIR No. 131/2020
PS.: Sadar Bazar
U/s: 376, 328 IPC

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

: 3 :

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 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. (**Sundeeep 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 the accused that infact accused is serious diabetic patient since the childhood; that he has been in JC since 24/06/2020. Infact, after the arrest he was hospitalized by the police to Hindu Rao Hospital for treatment of diabetic because his sugar level was very high and thereafter, he was admitted to Deen Dayal also; that his condition is not stable; that complainant is 24 year old and is elder than the accused. That complainant is a married woman having one child. Infact complainant cheated the accused and earlier did not disclose to the accused about her marital status and that she is having a child. That since January, 2020 complainant pressurising the accused for marriage and because of such pressure on 25/04/2020 one mutual agreement was also arrived between the complainant and accused. Copy of which is filed alongwith the present application. When recently accused came to know about marital status of the complainant, he told the complainant that he cannot marry her because is already married

and therefore to take revenge present case is filed against the accused. As such, it is prayed that he be granted regular bail or any relief which this court deems fit.

On the other hand, it is stated by the victim that she is already divorced for the last five years. It is further stated that by promise of marriage, the accused established physical relationship with her and had there been no promise of marriage, she would not have had such physical relationship with accused and she strongly opposed the present application. She further denies that she is aware of the contents of letter dated 25/04/2020. Further, it is argued on her behalf that relative of the accused are threatening her. It is further argued that relatives of the accused are even visiting the employer of the victim and telling such employer to dismiss the complainant from the job.

Further, in reply, as also argued by the learned Addl.PP for the State, it is stated that victim came to Delhi from Bihar one year ago and she and the accused became good friend. That accused mixed something in the cold drink and made the victim to drink the same and when she was not conscious, he established physical relationship with her and when later on she regained consciousness and started weeping, the accused promised her to marry. That such victim had refused her medical examination. It is further reaffirm that accused is patient of diabetic and was admitted to Hindu Rao Hospital. That in statement u/s 164 Cr.PC victim even claimed that in January, 2020 she was pregnant and accused gave her some tablets for abortion but such victim did not have any proof of the same. As such, present application is strongly opposed.

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

This case is recently registered on 24/06/2020. Investigation is in progress. Further case is at the investigation, further there are serious and specific allegations against the accused.

Therefore, at the initial stage of investigation, this court is not

inclined to grant regular bail to the present accused.

As such, prayer for regular bail is dismissed.

But there is no denying the fact that accused is a diabetic patient since childhood. In fact, after arrest he was admitted to hospital time and again by the police. Further, there is no denial of the fact that at present pandemic situation relating to corona virus is prevailing and there are ^{Some} instances of infection from the jail also.

As such, in the above position, facts and circumstances of present case applicant/accused is admitted to **interim bail** for a period of **30** days from the date of release on furnishing personal bond and surety bond **in the sum of Rs. 10,000/- to the satisfaction of court**. After completion of the interim bail period applicant shall surrender before concerned Jail Superintendent. Necessary intimation be sent to concerned Jail Superintendent accordingly.

Further, in the facts and circumstances of present case and the reply filed by the IO/SHO following conditions are also imposed on present accused for such interim bail :

- 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/her mobile number to the IO;

vii) Applicant shall mark his /her 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;

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.

ix) Applicant shall keep his / her such mobile number 'Switched On' at all the time , particularly between 8 am to 8 pm everyday.

The present application stands disposed off accordingly. **Learned counsel for the applicant / accused as well as the complainant is at liberty to collect the order dasti or through electronic mode. Copy of order be uploaded on the website. Further a copy be sent to the IO / SHO concerned.**

(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi

03/07/2020.

INTERIM BAIL APPLICATION

State Vs. Akash @ Prakash @ Chinu s/o Mr. Daulat Ram
FIR No. :271/2018
PS: DBG Road
U/S: 392, 394, 397, 326, 307, 341 IPC

Dated:03.07.2020.

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.
Mr. P.K.Garg, 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 and 18.05.2020 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 the IO.
3. Arguments heard.
4. As per the reply filed by the IO, accused is involved in number of cases, detail of which is enclosed with the reply. As such, he does not fall under the relaxed criteria dated 18/05/2020 relating to offences inter-alia involving 307 IPC.
5. But it is also the direction by Hon'ble HC that even otherwise such applications are to be considered on merit .

Accordingly Heard on merit.

6. It is argued on merit by learned counsel for the accused that marriage of the accused himself is fixed for 12/07/2020. It is further stated that various functions relating to marriage are starting from 5th July, 2020. As such, it is prayed that accused may be granted interim bail for a period of 45 days on the ground of his marriage.

7. On the other hand, it is replied by the IO, as also argued by the learned APP for the state that there is number of involvement of present accused. That he do not fall under the relaxed interim bail criteria of hon'ble high court. It is further stated that DD no.6A was received from Jeevan Mala Hospital and injured / complainant Deepak Khanna was found undergoing treatment there and he was having pain therefore, his statement could not be recorded on that day. Later on matter was investigated further, in the meanwhile, complainant side already registered online e-FIR through his mobile phone. Further details of the present offence was also mentioned. That present accused is identified in TIP by the complainant. Injury suffered by victim was grievous in nature. This he desperate to get out from the jail on one ground or the other. That when recently he moved interim bail application on the ground of illness of his father which was dismissed by a reason order by this court vide order dated 20/06/2020. As such, present bail application is opposed.

8. I find force in the arguments of the learned Addl.PP.

: 3 :

It may further be noted that in any case the case of accused do not fall in minutes of meeting of the Hon'ble High Court dated 18/05/2020, as there is other involvements of the present accused. On merit, it is stated that he is getting marriage and he needs interim bail for 45 days for that purpose. Having regard to the pandemic situation including in Delhi and restrictions put by the governerment in this regard, coupled with the nature of offence and the role of the accused and that prosecution evidence is not yet over, this court is not inclined to grant the interim bail. With these observations the present application is disposed off as dismissed. Copy of order be given dasti.

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

10. 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.**


(Naveen Kumar Kashyap)
ASJ-04/Central/THC
Central District/03.07.2020

SC No. 28612/2016
FIR No.: 199/09
PS: Kashmere Gate
STATE v Gaurav Chauhan & Ors.

03.07.2020.

Present: Sh. Pawan Kumar, Addl. PP for the State through
VC.

It is reported by the staff that when counsel Mr. Rajeev Mehra Mobile No.: 9527402409 for accused Gaurav Chauhan was contacted and likewise Mr. Lokesh Chandra Mobile No.: 9992782676 learned counsel for accused Ankur Singh was contacted, it is stated that they are not ready for arguments particularly through webex and they sought sometime.

Accused Gaurav and Ankur are on bail in this case. They seek adjournment.

Accused Sahi Ram is in JC in this matter and his counsel Mr. Anupam Sharma mobile No.: 9810009734 is also contacted by the staff on phone and he stated that main accused is Gaurav Chauhan and after the arguments is concluded on behalf of accused Gaurav Chauhan, he would address his arguments on behalf of accused Sahi Ram and he also sought adjournment.

As such, put up for arguments through VC for **03/09/2020** as per directions of Hon'ble High Court. Parties are directed to download webex and get familiar with the same by the next date of hearing.

As such, issue production warrant for accused Sahi Ram for next date of hearing through VC or in person as the situation permits.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
03.07.2020