

**BAIL APPLICATION**

**FIR No. : 21/20  
PS: Sadar Bazar  
State v. Sanjay Prakash  
U/S: 304/341/323/34 IPC**

**06.05.2020.**

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State.  
Sh. S.S. Raghav, Ld. Counsel for complainant.  
Sh. Ashok Kumar, Ld. counsel for applicant/  
accused.

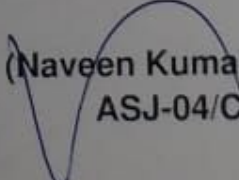
Reply filed by IO. Same is taken on record.

*Observations have been 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 Motu W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 has been issued by Ld. District & Sessions Judge (HQ).*

Part arguments heard.

Let status report regarding medical condition of the accused be filed by Jail Superintendent concerned by next date of hearing.

**Put up on 11.05.2020.**

  
(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
06.05.2020

State Vs Mohd. Nasir s/o late Mr. Sultan Baksh  
FIR No. 640/2014  
PS.: Kotwali  
U/s: 420/120B/34 IPC

06.05.2020

Present: Mr. Pawan Kumar Learned Addl. PP for State is available through electronic mode.  
None for the applicant / accused.

This is a regular bail application filed before the lockdown and as such, it appears that counsel for the accused is not appearing.

In the interest of justice, put up for appearance of learned counsel for the applicant / accused for **21/05/2020**.

(Naveen Kumar Kashyap)  
Additional Sessions Judge-04  
Central/THC/Delhi  
06.05.2020

**BAIL APPLICATION**

**FIR No. : 327/18  
PS: Prasad Nagar  
State v. Ramesh  
U/S: 307 IPC**

**06.05.2020.**

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State.  
Sh. Om Sharma, counsel for applicant/accused.  
SI Sanjay Kumar on behalf of SI Ram Avtar has  
filed reply. Same is taken on record.

*Observations have been 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 Motu W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 has been issued by Ld. District & Sessions Judge (HQ).*

Part arguments heard.

It is stated that immunity system of accused is weak but no medical document in this regard is filed.

At request, put up for filing of medical documents from accused side, if any. Further, issue notice to Jail Superintendent concerned to file a status report regarding health of the accused. Further, it is stated that due to some technical reason, Ld. Counsel wants hearing in person only and not through Video Conferencing. As such, put up before court concerned on **13.05.2020**.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/06.05.2020**

State Vs Ashish Kumar  
FIR No. 55/2020  
PS.: Pahar Ganj  
U/s: 376D/354/323/34 IPC

06.05.2020

Present: Mr. Pawan Kumar Learned Addl. PP for State is available through electronic mode.  
Mr. Jayendra Mishra, learned counsel for the applicant.

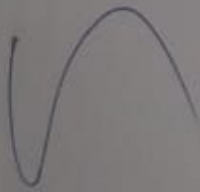
*Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Motu W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time, present application is taken up.*

Reply filed by the IO.

In reply, it is stated by the IO that offence u/s 376D IPC now stands to section 377 IPC.

At this stage, it is pointed out by the learned counsel for the applicant / accused that as the section 377 IPC is punishable with maximum punishment for 10 years only and is MM triable matter and without going through the merit of the case, he be granted interim bail in

**Contd...../-**



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State Vs Ashish Kumar  
FIR No. 55/2020  
PS.: Pahar Ganj

terms of directions passed by the Hon'ble High Court of Delhi.

Arguments heard.

In view of the facts of the present case on merit as well as in view of the directions passed by the Hon'ble High Court, the applicant / accused is admitted to interim bail for a **period of 45 days** starting from today on furnishing personal bond **in the sum of Rs. 10,000/- to the satisfaction of the Jail Superintendent concerned**. The present application stands disposed off accordingly. Learned counsel for the accused is at liberty to collect the order dasti or through electronic mode.

(Naveen Kumar Kashyap)  
Additional Sessions Judge-04  
Central/THC/Delhi  
06.05.2020

State Vs Adnan Hussain  
FIR No. 02/2014  
PS.: Jama Masjid  
U/s: 302/394/411/34 IPC

06.05.2020

Present: Mr. Pawan Kumar Learned Addl. PP for State is available through electronic mode.  
Mr. Asghar Khan, learned counsel for the applicant / accused.  
IO Inspector Rajesh Sharma PS Jama Masjid in person.

*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 Motu 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, present application is taken up.*

Part argument heard.

At this stage, it is stated by the learned counsel for the applicant / accused that he would be filing written arguments as well as certain case laws. Further, he is opting for online hearing for the next date of hearing. As such, he can file such written arguments online itself, if so, desired. Put up for arguments through V.C. for 11/05/2020.

(Naveen Kumar Kashyap)  
Additional Sessions Judge-04  
Central/THC/Delhi  
06.05.2020



State Vs Vikas  
FIR No. 132/2020  
PS.: Subzi Mandi  
U/s: 392/397/34 IPC

06.05.2020

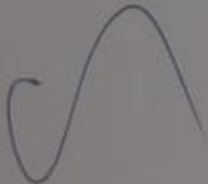
Present: Mr. Pawan Kumar Learned Addl. PP for State is available through electronic mode.  
Mr. Ranjan Kumar, learned counsel for the applicant / accused.

*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 Motu 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, present application is taken up.*

Reply filed.

Heard. Having regard to the reasons stated in the present interim bail application and the guidelines issued by the hon'ble High Court, the applicant is admitted to interim bail for a period of 45 days starting from today on furnishing personal bond **in the sum of Rs. 10,000/- to the satisfaction of the Jail Superintendent concerned.**

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State Vs Vikas  
FIR No. 132/2020  
PS. Subzi Mandi

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The present application stands disposed off accordingly. Learned counsel for the accused is at liberty to collect the order dasti or through electronic mode.

(Naveen Kumar Kashyap)  
Additional Sessions Judge-04  
Central/THC/Delhi  
06.05.2020



State Vs Zuhaib Ahmed  
FIR No. 170/2019  
PS.: Lahori Gate  
U/s: 307 IPC

06.05.2020

Present: Mr. Pawan Kumar Learned Addl. PP for State is available through electronic mode.  
Mr. Sandeep Yadav, learned counsel for the applicant / accused.

*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 Motu 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, present application is taken up.*

Reply not filed by the IO. IO to explain as to why reply has not been filed so far.

Put up for filing of reply, argument and appropriate order on  
12/05/2020.

(Naveen Kumar Kashyap)  
Additional Sessions Judge-04  
Central/THC/Delhi  
06.05.2020

State Vs Vishal  
FIR No. 21/2020  
PS.: Roop Nagar  
U/s: 376 IPC & 7 POCSO Act

06.05.2020

Present: Mr. Pawan Kumar Learned Addl. PP for State is available through electronic mode.  
SI Ranjit Singh in person.

An application for issuance of NBWs against accused Vishal s/o Raj Kumar R/o C-2/310, Sultan Puri, Delhi in case FIR No. 21/2020 PS Roop Nagar u/s 376 IPC & 4 POCSO Act has been filed by SI Ranjit Singh.

Heard.

In view of the submissions made and the efforts made so far, let NBWs be issued against accused Vishal. Copy of order be given dasti as prayed for.

(Naveen Kumar Kashyap)  
Additional Sessions Judge-04  
Central/THC/Delhi  
06.05.2020

State Vs Anuj Kumar  
FIR No. 84/2020  
PS.: Nabi Karim  
U/s: 376/328 IPC

06.05.2020

Present: Mr. Pawan Kumar Learned Addl. PP for State is available through electronic mode.  
Mr. Rajat Sang Sharma, learned counsel for the applicant / accused.

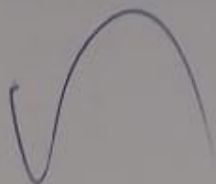
*Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Motu W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 18/04/2020, present application is taken up.*

Vide this order, the second bail application under section 439 Cr.P.C. on behalf of accused Anuj Kumar dated 27/04/2020 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

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*State Vs Anuj Kumar  
FIR No. 84/2020  
PS.: Nabi Karim*

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

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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


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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

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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 that complainant's allegations are that on the pretext of marriage, the accused established physical relations with her and later stopped meeting or communicating complainant; that accused is working in BSF; that investigation is already complete and trial is likely to take time. He further relied on a number of case laws and argued that at best it is a case of cheating and not a case u/s 376 IPC. As such, it is prayed that he be granted regular bail. But, as also stated in the reply filed by the IO, the factum of physical relationship is not in dispute and even repeated by complainant in her statement u/s 164 Cr.PC. Further, evidence of the complainant is yet to be recorded. In fact that stage has not come so far. Under these circumstances, having regard to the nature of allegations made and the stage of the present case, this court is not inclined to grant the relief as sought in the present application. Hence, the same is dismissed.

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

(Naveen Kumar Kashyap)  
Additional Sessions Judge-04  
Central/THC/Delhi  
06.05.2020

BAIL APPLICATION

FIR No. : 356/07

PS: Hauz Qazi

State v. Gopal Kishan Aggarwal S/o Biri Kishore Aggarwal

U/S: 302/120B IPC

06.05.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State  
(through Electronic mode)

Sh. Abhay Kumar, Ld. Counsel for applicant/  
accused.

*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 Motu 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 18/04/2020, present application is taken up.*

Vide this order, the present interim bail application under section 439 Cr.P.C. moved on behalf of accused Gopal Krishan Aggarwal through counsel is disposed of.

Arguments in detail heard.

Further this court has gone through the medical status report dated 15.04.2020 filed by Medical Incharge, Jail no.3, Tihar Jail.

Medical condition of accused is described in detail including the Parkinson disease. Further, accused is suffering

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FIR No. : 356/07  
PS: Heuz Qazi  
State v. Gopal Kishan Aggarwal S/o Biri Kishore Aggarwal  
U/S: 302/120B IPC

from Type-2 diabetes. It is further a matter of record that he is in JC for the last 13 years. Further, he was granted interim bail on previous occasions also on medical ground including on 21.04.2014, 08.07.2015, 22.04.2016, 04.10.2016. Under these circumstances on merit, the accused is granted interim bail for a period of thirty days on furnishing personal bond and surety bond in the sum of Rs. 20,000/- each to the satisfaction of the court.

After completion of the interim bail period, applicant/accused shall surrender before concerned Jail Superintendent. Necessary intimation be sent to concerned Jail Superintendent accordingly.

Further, applicant shall not flee from the justice, shall not tamper with the evidence, shall not threaten or contact in any manner to the prosecution witnesses, shall not leave country without permission. Applicant/accused shall mark his attendance before local SHO on everyday. Applicant shall also provide his mobile number to the IO and the same shall be kept 'Switched on' on all the time.

**Accordingly, interim bail application stands disposed of.**

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

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
06.05.2020

State Vs Sumit Arora  
FIR No. 0032/2019  
PS.: Crime Branch  
U/s: 399/402/379/411 IPC

06.05.2020

Present: Mr. Pawan Kumar Learned Addl. PP for State is available through electronic mode.

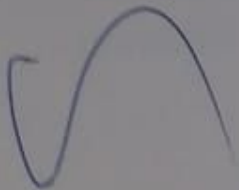
Mr. Jaspal Singh, Learned counsel for the applicant.

*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 Motu 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 18/04/2020, present application is taken up.*

Further, reply as sought on 04/05/2020 not filed by the IO. On inquiry made over phone through Naib Court, it is stated by the IO that he has not received any intimation regarding additional reply.

As such, put up for filing of additional report regarding interim bail, if so, granted to the co-accused. Further, copy of this order be sent to Learned Chief Public Prosecutor for his information as it appears that there is some communication gap in communicating to the concerned IO.

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*State Vs Sumit Arora*  
*FIR No. 0032/2019*  
*PS.: Crime Branch*

Learned counsel for the applicant stated that he does not want hearing through VC but in court only.

Put up for filing of reply by the IO positively by the next date of hearing. Put up on **12/05/2020**.

(Naveen Kumar Kashyap)  
Additional Sessions Judge-04  
Central/THC/Delhi  
06.05.2020



**BAIL APPLICATION**

**FIR No. : 101/11  
PS: Nabi Karim  
State v. Seema Malhotra  
U/S: 420/467/468/471/474/120B IPC**

**06.05.2020.**

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State  
(through Video Conferencing).  
Sh. Akshat Gupta, Ld. Counsel for for applicant/  
accused(through Video Conferencing).

*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 Motu 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 18/04/2020, present application is taken up.*

Part arguments heard.

It is argued that accused is a lady. That she is suffering from certain medical conditions.. That main accused has already been granted bail six years ago.

In reply, it is stated by IO that present accused was earlier declared as Proclaimed Offender and FIR u/s 174A IPC was also registered against her. It is further stated that due to lock-down condition, treatment paper could not be verified.

On the other hand, it is stated by learned counsel



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FIR No. : 101/11  
PS: Nabi Karim  
State v. Seema Malhotra  
U/S: 420/467/468/471/474/120B IPC

for accused that medical papers are already filed by him on record.

In any case, neither the counsel is able to clear the status at present nor trial court record is available regarding the facts, terms and conditions on which co-accused was granted bail.

As such, put up for further arguments/filing of such bail order of co-accused by the accused side. In any case, issue notice to IO to file copy of such bail order granted to co-accused/main accused in this case.

**Put up for 11.05.2020.**

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
06.05.2020

concerned counsel. AS  
But today, as noted above, none is

**BAIL APPLICATION**

FIR No. : 266/14  
PS: Chandni Mahal  
State v. Fareed Ahmed  
U/S: 302 IPC

06.05.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State  
(through electronic mode).

Sh. S.N.Shukla, LAC for accused is not present.

*Observations have been 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 Motu W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 has been issued by Ld. District & Sessions Judge (HQ).*

Further, on perusal of previous ordersheets, it is revealed that one Ld. counsel Sh. Harsh Hardy appeared on behalf of accused before Duty MM on 12.04.2020, which order is challenged by the State in the present application dated 13.04.2020 by present cancellation of bail application. Thereafter, the operation of such bail order by such duty MM dated 12.04.2020 was stayed by Ld. Duty Sessions Judge vide order dated 14.04.2020 and on the last date of hearing, Sh. S.N. Shukla, LAC for accused sought time to get instructions from the concerned counsel. As such, the matter was put up for today. But today, as noted above, none is present. As such, court

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FIR No. : 266/14  
PS: Chandni Mahal  
State v. Fareed Ahmed  
U/S: 302 IPC

notice be issued through Electronic mode in terms of directions already issued, to counsel Sh. Harsh Hardy for next date of hearing. In the meanwhile, the operation of order dated 12.04.2020 is continued to be stayed.

**Put up for 20.05.2020.**

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
06.05.2020

**AT 12.40 pm**

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state(through electronic mode).  
Sh. Harsh Hardy, Ld. counsel for accused.

Ld. Counsel for accused seeks copy of the application moved by the prosecution for cancellation of bail and time to file appropriate reply. Further, he states that he desires that he be heard through Video Conferencing only. As such, he can file reply through electronic mode in terms of directions already passed by Ld. District & Sessions Judge (HQ).

**Put up for filing of reply Online by 10.05.2020, as well as hearing through Video Conferencing on 11.05.2020.**

**Date already fixed i.e. 20.05.2020 stands cancelled.**

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
06.05.2020

**BAIL APPLICATION**

**State Vs Mohd. Javed**  
**FIR No. 139/2011**  
**PS: I.P. Estate**  
**U/S: 364A/302/394/201/120B/34 IPC**

06/05/2020

Present: Mr. Pawan Kumar, Learned Addl. PP for the State is available through electronic mode.  
Mr. Ajay Verma, Learned counsel for the applicant / accused.

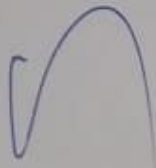
*The observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Motu W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 18/04/2020, present application is taken up.*

Vide this order, the bail application under section 439 Cr.P.C. on behalf of accused Mohd. Javed dated 29/04/2020 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

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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

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substantial punitive content and it would be improper for any court to refuse bail as mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439 CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

But, the liberty of an individual is not absolute. The Society by its collective wisdom through process of law can withdraw the liberty that it has sanctioned to an individual when an individual becomes a danger to the societal order. A society expects responsibility and accountability from the member, and it desires that the citizens should obey the law, respecting it as a cherished social norm. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly thing which the society disapproves, the legal consequences are bound to follow.

Further discretionary jurisdiction of courts u/s 437 and 439 CrPC should be exercised carefully and cautiously by balancing the rights of the accused and interests of the society. Court must indicate brief reasons for granting or refusing bail. Bail order passed by the court must be reasoned one but detailed reasons touching merits of the case, detailed examination of evidence and elaborate documentation of merits of case should not be done.

At this stage, it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences

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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

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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 this case, it is stated that case is pending for final arguments; that mother of the accused is not keeping well; further wife of accused is diagnosed with breast cancer; further he was granted interim bail and he duly surrendered after utilizing the same; it is further stated that co-accused Firoz Alam has recently been granted bail by the Hon'ble High Court on 24/04/2020 on similar grounds. Copy of the order dated 24/04/2020 passed by the Hon'ble High Court of Delhi in BA No. 790/2020 is annexed with this application.

On the other hand, it is submitted by the IO that offence is heinous in nature including u/s 302 and 364A IPC but in report filed by Inspector Arvind Pratap Singh, the factum of illness of mother and wife is not denied. Under

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these circumstances, when bail to the co-accused is already granted by the Hon'ble High court recently on 24/04/2020, which order is perused by this court as annexed with the present bail application, on the same terms and conditions, present accused is also granted bail i.e. on his furnishing a personal bond in the sum of Rs. 15,000/- to the satisfaction of Jail Superintendent concerned, subject to the following conditions:

- i) The applicant will regularly appear on each and every date of hearing as may be fixed by the learned Trial Court;*
- ii) The applicant shall keep the Investigating Officer Inspector Arvind, Police Station I.P. Estate (Mob No. 9717288003) informed about his whereabouts every Friday through SMS or telephone.*

Learned counsel for the applicant / accused is at liberty to collect the order dasti or through electronic mode. Copy of order be uploaded on the website.

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
06/05/2020



**BAIL APPLICATION**

FIR No. : 415/15  
PS: Kotwali  
State v. Lalit @ Babloo  
U/S: 395/397/365/120 B IPC

**06.05.2020.**

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State  
(through Video Conferencing)  
Sh. Shoaib Akhtar, Ld. Counsel for applicant/  
accused (through Video Conferencing).

*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 Motu 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 18/04/2020, present application is taken up.*

Part arguments heard.

It is argued that co-accused is granted interim bail recently only. But copy of such order is not on record. As such, issue notice to IO as learned counsel for accused do not have a copy with him.

At request, put up on 11.05.2020 for further arguments and appropriate orders including on the ground of parity through Video Conferencing.

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
06.05.2020

**BAIL APPLICATION**

FIR No. : 415/15  
PS: Kotwali  
State v. Sunil etc.  
U/S: 395/397/365/412/201 IPC

06.05.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State  
(through Video Conferencing)  
None for applicant/accused since morning despite repeated calls.

*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 Motu 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 18/04/2020, present application is taken up.*

As such, put up for appearance of counsel for accused on **13.05.2020**.

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
06.05.2020

BAIL APPLICATION

FIR No. : 130/14  
PS: Kamla Market  
State v. Raj Bahadur & Ors.  
U/S: 419/420/365/392/412/207/120B IPC

06.05.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State  
(through Electronic mode)  
Sh. Rajan Bhatia, Ld. counsel for applicant/  
accused.

*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 Motu 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 18/04/2020, present application is taken up.*

Arguments in detail heard. Further, report of the main case perused. The trial of this case is pending in this court only.

Further, he was granted interim bail on more than one occasion on similar ground. Under these circumstances on merit, the accused is granted interim bail for a period of thirty days on furnishing personal bond and surety bond in the sum of Rs. 20,000/- each to the satisfaction of the court.

After completion of the interim bail period,



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FIR No. : 130/14  
PS: Kamla Market  
State v. Raj Bahadur & Ors.  
U/S: 419/420/355/392/412/207/120B IPC

applicant/accused shall surrender before concerned Jail Superintendent. Necessary intimation be sent to concerned Jail Superintendent accordingly.

Further, applicant shall not flee from the justice, shall not tamper with the evidence, shall not threaten or contact in any manner to the prosecution witnesses, shall not leave country without permission. Applicant/accused shall mark his attendance before local SHO on everyday. Applicant shall also provide his mobile number to the IO and the same shall be kept 'Switched on' on all the time.

**Accordingly, interim bail application stands disposed of.**

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

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
06.05.2020

**BAIL APPLICATION**

**FIR No. : 327/19  
PS: Crime NDPS  
State v. Inder Singh  
U/S: 21/29 NDPS Act**

**06.05.2020.**

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State  
(through Video Conferencing)  
Sh. Areeb Ahmed and Sh. Vinod Kumar Verma, Ld.  
counsel for applicant/accused (through Video  
Conferencing).

*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 Motu 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 18/04/2020, present application is taken up.*

Reply filed by Jail Superintendent regarding medical condition of the accused/applicant. Same is taken on record.

After some arguments, counsels for accused/ applicant seek some time to file further medical record, if any of the accused.

At request, put up for further arguments/appropriate orders on this interim bail application on **13.05.2020** through

FIR No. : 327/19  
PS: Crime NDPS  
State v. Inder Singh  
U/S: 21/29 NDPS Act

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Video Conferencing.

A copy of reply received through Jail Superintendent be supplied to counsel for accused through electronic mode at request.

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
06.05.2020

State Vs Ashish @ Sahu  
FIR No. 25/2020  
PS.: Burari  
U/s: 366/363/376 IPC & 486 Posco Act

06.05.2020

Present: Mr. Pawan Kumar Learned Addl. PP for State is available through electronic mode.  
Mr. M.K. Panchal, learned counsel for the applicant / accused through V.C.

*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 Motu 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 18/04/2020, present application is taken up.*

In the present application accused has sought regular bail but during arguments learned counsel for accused pressed for interim bail only for 45 days.

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

In the present case, it is stated that mother of the accused is not well and as such he is pressing for interim bail only. It is further stated that he alongwith his brother is falsely implicated in the present case.

The victim is less than 18 years. Further her statement u/s 164 Cr.PC is recorded during investigation. Further the present accused is not covered in the relaxed guidelines noted above, having regard to the nature of offence in question. Even otherwise on merit, this court is not inclined to grant interim bail to the present accused under such circumstances at this stage. With these observations request for interim bail is declined. Case is disposed of accordingly.

Learned counsel for the applicant / accused is at liberty to collect the order dasti or through electronic mode. Copy of order be uploaded on the website.

(Naveen Kumar Kashyap)  
Additional Sessions Judge-04  
Central/THC/Delhi  
06.05.2020



State Vs Bhupinder @ Kaale  
FIR No. 25/2020  
PS.: Burari  
U/s: 366/363/376 IPC & 486 Posco Act

06.05.2020

Present: Mr. Pawan Kumar Learned Addl. PP for State is available through electronic mode.  
Mr. M.K. Panchal, learned counsel for the applicant / accused through V.C.

*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 Motu 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 18/04/2020, present application is taken up.*

In the present application accused has sought regular bail but during arguments learned counsel for accused pressed for interim bail only for 45 days.

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

In the present case, it is stated that wife of the accused is not well and applicant is having two minor daughters and as such he is pressing for interim bail only. It is further stated that he alongwith his brother is falsely implicated in the present case.

The victim is less than 18 years. Further her statement u/s 164 Cr.PC is recorded during investigation. Further the present accused is not covered in the relaxed guidelines noted above, having regard to the nature of offence in question. Even otherwise on merit, this court is not inclined to grant interim bail to the present accused under such circumstances at this stage. With these observations request for interim bail is declined. Case is disposed of accordingly.

**Learned counsel for the applicant / accused is at liberty to collect the order dasti or through electronic mode. Copy of order be uploaded on the website.**

(Naveen Kumar Kashyap)  
Additional Sessions Judge-04  
Central/THC/Delhi  
06.05.2020

State Vs Pooja Gupta  
FIR No. 141/2015  
PS.: Darya Ganj  
U/s: 302/301 IPC

06.05.2020

Present: Mr. Pawan Kumar Learned Addl. PP for State is available through electronic mode.  
Mr. Diwanshu Sehgal, learned counsel for accused.

*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 Motu 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 18/04/2020, present application is taken up.*

Arguments Heard.

It is submitted that medical condition of the accused is not well and she may contract fatal disease from fellow inmates.

But admittedly case of the present accused do not fall under the relaxed criteria for grant of the interim bail having regard to the nature of offence. Further, it is informed that appropriate steps are already taken by concerned jail authority to segregate new prisoners in jail. Further, it is not the case of accused that some fellow accused is suffering from corona.

Thus, having regard to the same and in the background of the above mentioned judicial guidelines, this court is not inclined to grant the interim bail to the present applicant / accused at this stage. Hence, the present bail application is disposed of as dismissed. Copy of order be given dasti.

Copy of order be uploaded on the website.

(Naveen Kumar Kashyap)  
Additional Sessions Judge-04  
Central/THC/Delhi  
06.05.2020

**BAIL APPLICATION**

**FIR No. : 213/18  
PS: Lahori Gate  
State v. Shail  
U/S: 395/412/120B IPC**

**06.05.2020.**

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State  
(through Video Conferencing)  
Counsel for applicant/accused (through Video  
Conferencing).

*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 Motu 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 18/04/2020, present  
application is taken up.*

Part arguments heard through Video Conferencing.

It is argued that father of accused is not well. That  
there is no one to look after him in lock-down. That accused is in  
JC for the last one and a half year. That he was arrested on the  
basis of disclosure statement only.

On the other hand, it is stated in reply that medical  
documents could not be verified and some more time is sought.

Last and final opportunity is granted to prosecution to  
verify such medical document.

**Put up for verification report, further arguments  
and appropriate orders on 13.05.2020.**

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
06.05.2020

**INTERIM BAIL APPLICATION**

**FIR No. : 191/19  
PS: Karol Bagh  
State v. Dev Arjun  
U/S: 302/307/120B IPC**

**06.05.2020.**

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State  
(through Video Conferencing)  
Sh. Deepanshu Sehgal, Ld. Counsel for applicant/  
accused (through Video Conferencing).

*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 Motu 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 18/04/2020, present application is taken up.*

Arguments heard on interim bail application.

Report filed by IO Insp. Satyapal. Same is taken on record.

But in such report, it is again mentioned that verification of medical papers from LHMC hospital, RML hospital and B.L. Kapoor hospital could not be verified due to present pandemic situation. As such, one last and final opportunity is given to prosecution to verify such medical document, failing which application will be decided based on the material available on merit.

Put up on 13.05.2020.

(Naveen Kumar Kashyap)  
ASJ-04/Central/06.05.2020



**BAIL APPLICATION**

FIR No. : 27/2020  
PS: Timarpur  
State v. Waseem  
U/S: 186/307 IPC & 25/27 Arms Act

06.05.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State  
(through Video Conferencing)  
Sh. Shahid Ali, Ld. counsel for applicant/  
accused (through Video Conferencing)

*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 Motu 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 18/04/2020, present application is taken up.*

It is clarified by learned counsel for accused that he filed bail application Online but certain pages were missing, as such he filed again same bail application and that is why there are two separate bail applications on record about the same accused on the same grounds. Same is noted.

Arguments in detail heard through Video Conferencing from both sides.

It is prayed in the present application that accused be granted interim bail for a period of 45 days in view of the

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directions passed by Hon'ble High Court of Delhi.

In the present case chargesheet is filed u/s 307 IPC apart from other offences. But it is claimed by the learned counsel for accused as mentioned in such application that offence u/s 307 IPC is not made out, hence, he be granted interim bail as the remaining offences are covered under the directions of Hon'ble High court of Delhi as mentioned above. But whether offence u/s 307 IPC is made out or not is a matter of trial and it may be noted that chargesheet is already filed and cognizance is already taken including u/s 307 IPC. Further, it is pointed out by the IO that the accused fired upon the police officer during a raid by the police. Further sophisticated arms were recovered from the vehicle of the accused. It is further stated that present accused is also previously involved in a case u/s 302 IPC. As such, at this stage, this cannot be presumed that section 307 IPC is not made out.

As such, on merit, this court is not inclined to grant interim bail to the accused at this stage. **With these observations, present bail application is disposed of as dismissed.**

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

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
06.05.2020

**State Vs Bilal**  
**FIR No. 22/2020**  
**PS.: Chandni Mahal**  
**U/s: 307/34 IPC**

**06/05/2020**

**Present: Mr. Pawan Kumar, Ld. Addl. PP for State is available through electronic mode.**  
**Mr. Sandeep Yadav, learned counsel for applicant / accused.**

*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 Motu 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 18/04/2020, present application is taken up.*

Vide this order, the second regular bail application under section 439 Cr.P.C. on behalf of accused Bilal dated 20/04/2020 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

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*State Vs Bilal  
FIR No. 22/2020  
PS.: Chandni Mahal*

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

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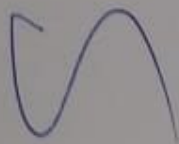
question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439 CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

But, the liberty of an individual is not absolute. The Society by its collective wisdom through process of law can withdraw the liberty that it has sanctioned to an individual when an individual becomes a danger to the societal order. A society expects responsibility and accountability from the member, and it desires that the citizens should obey the law, respecting it as a cherished social norm. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly thing which the society disapproves, the legal consequences are bound to follow.

Further discretionary jurisdiction of courts u/s 437 and 439 CrPC should be exercised carefully and cautiously by balancing the rights of the accused and interests of the society. Court must indicate brief reasons for granting or refusing bail. Bail order passed by the court must be reasoned one but detailed reasons touching merits of the case, detailed examination of evidence and elaborate documentation of merits of case should not be done.

At this stage , it can also be fruitful to note that requirements for

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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

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State Vs Bilal  
FIR No. 22/2020  
PS.: Chandni Mahal

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 stated that first regular bail application u/s 437 Cr.PC was dismissed by Learned MM on 29/02/2020 and second regular bail application was dismissed as withdrawn on 07/03/2020 from the court of learned ASJ. That accused is only 19 years old and is falsely*

**Contd...../**





implicated. No useful purpose would be served by keeping him behind the bar. That injury was simple in nature upon the victim. That complainant himself is having many criminal cases against him and he was trying alongwith his friend to snatch mobile from the accused. Further, learned counsel for the accused has relied upon the certain case laws also.

Reply is filed by SI Pawan Yadav. Result of MLC is awaited as per IO. It is further stated that now the chargesheet is already filed.

Admittedly in the present case chargesheet was filed u/s 308 IPC for which maximum punishment is for 07 years. Trial is likely to take some time and no useful purpose would be served by keeping the accused in JC particularly in such pandemic condition.

Under these circumstances, this court is inclined to grant bail to the present applicant / accused Bilal on the following conditions:

- (i) Furnishing of personal bond and surety bond in the sum of Rs. 15,000/- with two sureties of the like amount;
- (ii) That he will not threaten the witness or tamper with evidence;
- (iii) That he will not leave India without the permission of the court;
- (iv) Further he will mark his attendance before the SHO of PS Chandni Mahal every month once, any time in the last week of that month.
- (v) Further he will furnish his mobile phone number to the IO / SHO concerned and will keep his mobile phone 'ON' all the time.

Application stands disposed off according. Learned counsel for the applicant is at liberty to collect the order dasti or through electronic mode. Copy be uploaded on the website.

(Naveen Kumar Kashyap)  
Additional Sessions Judge-04  
Central/THC/Delhi  
06.05.2020



**BAIL APPLICATION**

**FIR No. : 98/18  
PS: Sadar Bazar  
State v. Ranvir @ Rang Lal  
U/S: 302/307 IPC**

**06.05.2020.**

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State  
(through Electronic mode)

Sh. Vineet Jain, Ld. counsel for applicant/ accused.

*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 Motu 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 18/04/2020, present application is taken up.*

Arguments heard on the present interim bail application dated 28.04.2020.

In nutshell, it is submitted by accused side that he is in JC for about 2 ½ years. That he is suffering from ailments and no proper treatment is given to him in jail. It is further stated that applicant is entitled to interim bail as he may suffer from Corona infection in jail. That trial is likely to take some time.

On the other hand, reply dated 29.04.2020 is filed by SI Vijay Kumar.

In nutshell, it is stated that accused is charged with Section 302 IPC. That co-accused is still absconding. That there is a threat to the family of the deceased and round the clock security is being provided to the family of the deceased. That witness are yet to be examined. That treatment is provided by the jail authority

FIR No. : 98/18

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concerned. That he is more safe inside the jail premises as far as apprehension of infection is concerned.

Further, a report is also sent by Jail Superintendent concerned, attaching the report of medical officer Incharge concerned dated 05.05.2020. In such report, it is mentioned that accused is a patient of chronic Hepatitis B and under regular treatment from Jail duty doctors, Jail Visiting specialists as well as doctors from the concerned department of G.B. Pant hospital. That his condition is stable for such treatment and medicines are provided from the jail dispensaries itself.

In the present case inter alia the offence under Section 302 IPC is also made out as per prosecution. Same is punishable minimum with imprisonment for life. As such, he is not covered under the relaxed criteria of Hon'ble High court as mentioned above. Further, it is reported that jail authority concerned are taking appropriate steps in the present pandemic condition to stop spreading of COVID-19. Further, it is not the case of the accused that anyone in his Ward or jail where he is lodged is found suffering from such disease. Thus, having regard to the nature of offence, this court is not inclined to grant interim bail to the accused at present. **With these observations, present interim bail application is disposed of as dismissed.**

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

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
06.05.2020

BAIL APPLICATION

FIR No. : 668/15  
PS: Sadar Bazar  
State v. Mohd. Saddat  
U/S: 420/468/471 IPC

06.05.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State  
(through Electronic mode)  
Sh. Ashish Kapoor, Ld. counsel for applicant/  
accused.

*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 Motu 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 18/04/2020, present application is taken up.*

Arguments heard on the present interim bail application dated 21.04.2020.

In nutshell, it is submitted by accused side that he is the only bread-earner of the family and got two small children and due to lock-down in Delhi his family is facing problem to meet daily needs. It is further stated that his mother is not well.

On the other hand, such bail application is opposed by prosecution and a reply is also filed to the same on 05.05.2020. it is further stated that brother of the accused is

FIR No. : 668/15  
PS: Sadar Bazar  
State v. Mohd. Saddat  
U/S: 420/468/471 IPC

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residing in the same area and can take care of mother and that he may tamper with the evidence and may influence the witness and is likely to jump the bail.

In the present case inter alia the offence under Section 467 IPC is also made out as per prosecution. Same is punishable with imprisonment upto life. Further, it is not the case of the accused that he himself is suffering from any disease. As such, he is not covered under the relaxed criteria of Hon'ble High court as mentioned above. Further, on merit also, there is a brother of accused who can take care of family members. As such, this court is not inclined to grant interim bail to the accused at this stage. **With these observations, present bail application is disposed of as dismissed.**

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

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
06.05.2020



BAIL APPLICATION

FIR No. : 436/18  
PS: Karol Bagh  
State v. Sunil  
U/S: 395/397/120B IPC

06.05.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State  
(through Electronic mode)  
Sh. Deepak Kumar Mishra, Ld. counsel for  
applicant/accused.

*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 Motu 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 18/04/2020, present application is taken up.*

Arguments heard on the present interim bail application dated 05.05.2020.

In nutshell, it is submitted by accused side that accused has to take care of the mother who is old and ailing and starving due to lock-down. It is further stated that applicant is entitled to interim bail as Indian jail are not equipped with safety measures. That he is in JC for the last seventeen months. That he was arrested based on disclosure statement only. That trial is likely to take some time.

On the other hand, reply dated 06.05.2020 is filed

FIR No. : 436/18  
PS: Karol Bagh  
State v. Sunil  
U/S: 395/397/120B IPC

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by the prosecution side.

It is pointed out that his bail application was already dismissed on 05.03.2020. that he actively participated in dacoity in question.

In the present case inter alia the offence under Section 395 IPC is also made out as per prosecution. Same is punishable with imprisonment upto life. Further, it is not the case of the accused that he himself is suffering from any disease. As such, he is not covered under the relaxed criteria of Hon'ble High court as mentioned above. Further, it is reported that jail authority concerned are taking appropriate steps in the present pandemic condition to stop spreading of COVID-19. Further, it is not the case of the accused that anyone in his Ward or jail where he is lodged is found suffering from such disease. Thus, having regard to the nature of offence, this court is not inclined to grant interim bail to the accused at present. **With these observations, present bail application is disposed of as dismissed.**

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

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
06.05.2020

State Vs Seema Devi  
FIR No. 97/2012  
PS.: Prasad Nagar  
U/s: 302/201/120B/34/420/419 IPC

06.05.2020

Present: Mr. Pawan Kumar Learned Addl. PP for State is available through electronic mode.  
None for the applicant / accused.  
IO SI Sanjay Kumar in person.

*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 Motu 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, present application is taken up.*

Be awaited for the counsel for the applicant.

(Naveen Kumar Kashyap)  
ASJ-04 Central/THC/Delhi/06.05.2020

At 4:30 PM, It is already 4:30 PM, none has appeared on behalf of accused. Let notice be issued to Mr. Joginder Tuli, learned counsel for accused on his mobile No.: 9811180788 for the next date of hearing through electronic mode in the present case.

(Naveen Kumar Kashyap)  
ASJ-04 Central/THC/Delhi/06.05.2020

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

**State Vs Rajesh Kumar**  
**FIR No. 919/2015**  
**P. S. Burari**  
**U/s: 420, 468, 471, 34 IPC**

**06/05/2020**

Present: Mr. Pawan Kumar, Learned Addl. PP for State is available through electronic mode.

Mr Jatan Singh, Learned counsel for applicant / accused Rajesh through electronic mode.

*The 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 Motu 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 18/04/2020, present application is taken up.*

Vide this order, bail application u/s 439 Cr.PC dated 05/05/2020 filed by applicant Rajesh s/o Mr. Ramesh through counsel is disposed of.

It is stated that applicant was arrested on 13/10/2016 and falsely implicated in the present case; that he is already granted bail by this court only in some other connected matter with similar facts; it is further submitted that ultimately charge is fixed u/s 420, 468, 471 read with section 34 IPC and not under u/s 467 IPC. It is further claimed that IO time and again misled the court on previous occasions and mentioned such section 467 IPC also. It is





further stated that in any case accused is in JC since 13/10/2016 and it is stated that as such half of the maximum imprisonment period is already over and is entitled to bail u/s 436(A) Cr.PC also. It is further pointed out that evidence started in January 2019 in this MM Trial matter and still it is not over despite lapse of one year. As such, it is submitted that he is entitled to bail u/s 437(6) Cr.PC also.

On the other hand, in reply filed by SI Ajay Kumar, it is submitted that accused may win over the witness and he cheated innocent persons and he was declared PO earlier in some other FIR. Further, it is submitted that offence is heinous in nature. As such, bail application is opposed.

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

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

The fundamental principle of our system of justice is that a person should not be deprived of his liberty except for a distinct breach of law. If there is no substantial risk of the accused fleeing the course of justice, there is no reason why he should be imprisoned during the period of his trial. The basic rule is to release him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after convictions, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earlier times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial ,but in such case 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the constitution that any persons should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty under Article 21 of the Constitution upon only the belief that he will tamper with the witnesses if left

at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439 CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

But, the liberty of an individual is not absolute. The Society by its collective wisdom through process of law can withdraw the liberty that it has sanctioned to an individual when an individual becomes a danger to the societal order. A society expects responsibility and accountability from the member, and it desires that the citizens should obey the law, respecting it as a cherished social norm. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly thing which the society disapproves, the legal consequences are bound to follow.

Further discretionary jurisdiction of courts u/s 437 and 439 CrPC should be exercised carefully and cautiously by balancing the rights of the accused and interests of the society. Court must indicate brief reasons for



granting or refusing bail. Bail order passed by the court must be reasoned one but detailed reasons touching merits of the case, detailed examination of evidence and elaborate documentation of merits of case should not be done.

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-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, the maximum punishment of the offences alleged against the present accused is 7 years. **It may further be noted and clarified that ultimately charge is not framed u/s 467 IPC, although, earlier same was mentioned during investigation stage.** It is a matter of record that accused is in JC since 13/10/2016 i.e. more than half of the maximum imprisonment is about to be over. Further, still the case is at the stage of evidence only and more than one year is already lapsed since such evidence started. Thus, trial is likely to take time. Further, as far as present accused is concerned, nothing remains to be recovered at his instance. In fact, the period for seeking police remand is already over way back. Further, co-accused are already granted bail. Further, it is alleged that he is involved in such other matters, but no conviction or even detail of any other case is placed on record in reply filed by the IO. Further, he is already granted bail in similar matter.

In above facts and circumstances, present accused is granted bail subject to furnishing of personal bond in the sum of **Rs. 25,000/- 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.

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

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

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

*a) In case of inability of a prisoner to seek release despite an order of bail, it is the judicial duty of the trial courts to undertake a review for the reasons thereof.*

*b) Every bail order shall be marked on the file.*

*c) It shall be the responsibility of every judge issuing an order of bail to monitor its execution and enforcement.*

*d) In case a judge stands transferred before the execution, it shall be the responsibility of the successor judge to ensure execution....."*


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

above observations, the Ld. MM is impressed upon to inform this court about the following:

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

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

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

  
(NAVEEN KUMAR KASHYAP)  
ASJ-04(Central/Delhi/06/05/2020)



**BAIL APPLICATION**

FIR No. : 84/19

PS: I P Estate

State v. Bhupender Singh Chauhan

U/S: 420/467/468/471 IPC

06.05.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State  
(through Electronic mode)  
Sh. Pradeep Sharma, Ld. Counsel for applicant/  
accused.  
Sh. Sanjay Rathi, counsel for complainant.

*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 Motu 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 18/04/2020, present application is taken up.*

Arguments in detail heard.


Arguments addressed earlier by accused side. It is further submitted that written arguments are already filed.

Further, today a number of photocopy of documents filed by complainant side. Certain time is needed to go through the same.

Present bail application is vehemently opposed.

:2:

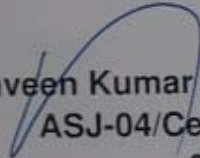
Put up for order/clarifications, if any at 4 pm.

  
(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
06.05.2020

At 5.30 pm

It is already 5.30 pm.

Orders are being dictated in other matters. Further, certain clarifications required in the present case regarding the role of present accused vis-a-vis co-accused Waziran. As such, put up for further arguments including on this aspect and appropriate orders on 11.05.2020.

  
(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
06.05.2020

State Vs Seema Devi  
FIR No. 97/2012  
PS.: Prasad Nagar  
U/s: 302/201/120B/34/420/419 IPC

06.05.2020

Present: Mr. Pawan Kumar Learned Addl. PP for State is available through electronic mode.  
None for the applicant / accused.  
IO SI Sanjay Kumar in person.

*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 Motu 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, present application is taken up.*

Be awaited for the counsel for the applicant.

(Naveen Kumar Kashyap)  
ASJ-04 Central/THC/Delhi/06.05.2020

At 4:30 PM, It is already 4:30 PM, none has appeared on behalf of accused. Let notice be issued to Mr. Joginder Tuli, learned counsel for accused on his mobile No.: 9811180788 for the next date of hearing through electronic mode in the present case for **14/05/2020**.

(Naveen Kumar Kashyap)  
ASJ-04 Central/THC/Delhi/06.05.2020