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

Application No.:- 2233/2020
State Vs Rahul
FIR No.218/2020
P. S. Rajinder Nagar
U/s: 379, 411 IPC

22/12/2020

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

Ms. Sandhya, learned counsel for accused through VC.

Vide this order, bail application u/s 439 Cr.PC dated 16/12/2020
filed by applicant through counsel is disposed off.

I have heard both the sides.

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

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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

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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,

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(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.

It is stated in the application that he is in JC since 04/10/2020; that investigation is already complete and recovery is already effected; that his bail application is already dismissed by learned MM; that he has family to support; that at best the allegations made are of section 411 IPC only. It is further claimed

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that he is a bonafide purchaser for value that he purchased the mobile phone for a sum of Rs.2,500/-; that investigation is complete and he is no more required for investigation; that he is neither a convict nor habitual offender; As such, it is prayed that he be granted regular bail.

On the other hand, in reply dated 22/12/2020 filed by ASI Daryao Singh, as also argued by learned Addl.PP for the State it is stated that he purchased the stolen mobile in question for about 2,500/- from the accused Basu which was stolen from the complainant; that he does not have any permanent address; that there is no other criminal record of the present accused as per record. As such, present bail application is strongly opposed.

In the present case, the maximum punishment of the offences alleged against the present accused is 3 years. The allegations against the accused are u/s 411 IPC only. Further, as far as present accused is concerned, nothing remains to be recovered at his instance. In fact, the period for seeking police remand is already over. But having noted so, it is stated by the IO that his presence may not be secured if he is released on bail. But appropriate terms can be imposed to secure his presence. As such, no purpose would be served by keeping such accused in JC. Trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case of present nature. In present case, no previous conviction or even involvement in criminal cases is placed on record by the IO.

In above facts and circumstances, such accused is granted bail subject to furnishing of **personal bond in the sum of Rs. 10,000/- with two sound sureties of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

i) That he will appear before IO / Trial Court as and when called as per law.

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

iii) That he will not leave Delhi without prior permission of the Trial Court concerned.

iv) He will not threaten the witness or tampering with evidence.

v) He shall convey any change of address immediately to

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the IO and the court;

vi) He shall also provide his mobile number to the IO and further share his location through mobile phone once in everyweek till filing of chargesheet and thereafter as may be directed by the learned Trial Court.

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

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

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

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

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

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

The copy of this order be sent to **Ld. MM** and also to the **Superintendent Jail**

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

The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain through electronic mode. Copy of this order be sent to concerned Jail Superintendent. Copy of this order be sent to IO / SHO concerned. Copy of order be uploaded on website.

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

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ASJ-04(Central/Delhi)
22.12.2020

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

BAIL APPLICATION NO:2128/2020

State v. Ankush Dubey
FIR No. :293/2020
PS: Prashad Nagar
U/S: 307,492 IPC

22.12.2020.

Present: Sh. Pawan Kumar,Ld. Addl. PP for the State through VC.
None for applicant.

Arguments already heard.

Today, case was fixed for orders.

Vide this order, the regular bail application dated 10.12.2020 filed by accused Ankush Dubey through counsel is disposed of.

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

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be deprived of his liberty except for a distinct breach of law. If there is no substantial risk of the accused fleeing the course of justice, there is no reason why he should be imprisoned during the period of his trial. The basic rule is to release him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

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

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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**).

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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

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while disposing of bail applications u/s 437/439 Cr.P.C., courts should assign reasons while allowing or refusing an application for bail. But detailed reasons touching the merit of the matter should not be given which may prejudice the accused. What is necessary is that the order should not suffer from non-application of mind. At this stage a detailed examination of evidence and elaborate documentation of the merit of the case is not required to be undertaken. Though the court can make some reference to materials but it cannot make a detailed and in-depth analysis of the materials and record findings on their acceptability or otherwise which is essentially a matter of trial. Court is not required to undertake meticulous examination of evidence while granting or refusing bail u/s 439 of the CrPC.

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

It is argued that accused is in JC since 17.11.2020. That there is no involvement of the present accused in the present offence and is arrested only on the basis that his scooty is found near the house of victim. It is further stated that he has roots in the society and there is no other criminal case against the present accused. That no purpose would be served by keeping him in the JC.

On the other hand, reply filed by SI Ranvir Singh as also argued by learned Addl. PP for the state that one scooty bearing no. DL-2SR-2602 found in the street where the house is situated where the victim Love Deepak was stabbed in chest and abdomen. That accused Vinod alongwith his three friends tried to overpower the victim in his house and they caught hold of him and made many attack with knife. When victim started making noise, three boys run away from there. It is further stated that present accused alongwith one more were guarding such house while the other accused was committing such offence in question. As such, there is total five accused in the present case as per the IO. That knife used is recovered from accused Prateek. That present accused took other accused for committing offence on his scooty and was guarding the house while other accused was committing the offence inside the house including u/s 307 IPC. As such, present application is strongly opposed.

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

Accused is a young person of 25 years of age. As per story of prosecution, role of present accused is different from other accused. From the story of prosecution, it can be seen that offences alleged against the present accused are by virtue of section 34 IPC. He did not take participation in the actual commission of offence unlike the other accused persons. That investigation and thereafter trial is likely to take time. Further, there is a presumption of innocence in favour of such accused. Further, appropriate terms can be imposed upon the accused in order to safeguard the interest of witness. Under above facts and circumstances, present accused is granted bail subject to furnishing of personal bond in the sum of **Rs. 20,000/- with one sound surety of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

- (i) That he will appear before IO / Trial Court as and when called as per law.*
- (ii) He will not indulge in any kind of activities which are alleged against him in the present case.*
- (iii) That he will not leave India without permission of the Court.*
- (iv) He will not threaten the witness or tampering with evidence.*
- (v) He shall convey any change of address immediately to the IO and the court;*
- (vi) He shall also provide his mobile number to the IO/trial court;*

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

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

“..... The trial courts should not only be sensitive but

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extremely vigilant in cases where they are recording orders of bail to ascertain the compliance thereof.....When bail is granted, an endorsement shall be made on the custody warrant of the prisoner, indicating that bail has been granted, along with the date of the order of bail.

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

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

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

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

The observations made in the present bail application order are for the purpose of deciding of present application and do

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not affect the factual matrix of the investigation of the present case which is separate issue as per law.

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

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ASJ-04(Central/Delhi
22.12.2020**

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Bail Application

**Bail Application No.: 2126/2020
State Vs. Ashfaq Alam
FIR No. :210/2019
PS: Kamla Market
U/S: 328, 379, 34 IPC**

22.12.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for the State through VC
Mr. Shamsul Haque, Learned counsel for accused through VC.

Vide this order, the regular bail application under section 439 Cr.P.C. on behalf of accused dated 10/12/2020 filed through counsel is disposed off.

I have heard both the sides and have gone through the Trial Court 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 therefore. 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

**Bail Application No.: 1907/2020
State Vs. Rajesh Kumar Meena
FIR No. :210/2019
PS: Kamla Market
U/S: 328, 379, 34 IPC**

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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

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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

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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.

Bail Application No.: 1907/2020
State Vs. Rajesh Kumar Meena
FIR No. :210/2019
PS: Kamla Market
U/S: 328, 379, 34 IPC

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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 he is in JC since 07/10/2020; that there is delay of registration of present FIR; further present accused is arrested after about one year of such alleged incident; it is further argued that accused is arrested from his house based on disclosure statement of co-accused Rajesh Kumar Meena. It is further stated that nothing is recovered at the instance of the accused; that he is just an auto driver by profession; It is further argued that there is no previous criminal case pending against the present accused; that he belongs to a poor family; that he is sole bread earner of the family. Ingredients of section 328 IPC are not satisfied at all. It is further argued that no purpose would be served by keeping the accused in JC. As such, it is prayed that he be granted interim bail.

On the other hand, it is argued by the learned Addl.PP for State that present accused is part and parcel of a gang who is targeting innocent people after intoxicating them and thereafter using their ATM cards etc to commit the offence. That a sum of Rs. 5.25 lacs was illegally taken from the account of the complainant. That present accused is auto driver who was present at the scene of crime and actively participated in the same. It is further argued that co-accused Rajesh Meena disclosed in confession to Police that present accused Ashfaq used to mix intoxicated items into the drinks that were offered to the passengers in auto. That he refused to undergo TIP proceedings. As such, present bail application is strongly opposed.

The regular bail applications of two of the co-accused namely Sanjay and Rajesh are already dismissed by this Court. But as far as present accused is concerned, as per the reply dated 14/12/2020 apart from the disclosure statement of co-accused Rajesh Kumar Meena that present accused is involved in the present offence particularly for 328 IPC, which is not legally sustainable being hit by section 24 to 26 Indian Evidence Act, there is hardly

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any evidence. Further, nothing is recovered as per such reply from the present accused. Further, no detail / medical evidence regarding 328 IPC is placed on record.

In above facts and circumstances, such accused is granted bail subject to furnishing of **personal bond in the sum of Rs. 10,000/- with two sound sureties of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

i) That he will appear before IO / Trial Court as and when called as per law.

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

iii) That he will not leave Delhi without prior permission of the Trial Court concerned.

iv) He will not threaten the witness or tampering with evidence.

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

vi) He shall also provide his mobile number to the IO and further share his location through mobile phone once in everyweek till filing of chargesheet and thereafter as may be directed by the learned Trial Court.

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

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

“..... 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

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a review for the reasons thereof.

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

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

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

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

The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain through electronic mode. Copy of this order be sent to concerned Jail Superintendent. Copy of this order be sent to IO / SHO concerned. Copy of order be uploaded on website.

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

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Bail Application No.: 1907/2020
State Vs. Rajesh Kumar Meena
FIR No. :210/2019
PS: Kamla Market
U/S: 328, 379, 34 IPC

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(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi
22/12/2020

Bail Application No.: 1907/2020
State Vs. Rajesh Kumar Meena
FIR No. :210/2019
PS: Kamla Market
U/S: 328, 379, 34 IPC

: 1 :

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

Application No.:- 2236/2020
State Vs Mohd. Kamran @ Monu
FIR No.23385/2020
P. S. Darya Ganj
U/s: 379, 411, 34 IPC

22/12/2020

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

Mr Sube Singh, learned counsel for accused through VC.

Vide this order, bail application u/s 439 Cr.PC dated 19/12/2020
filed by applicant through counsel is disposed off.

I have heard both the sides.

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

State Vs Mohd. Kamran @ Monu
FIR No.23385/2020
P. S. Darya Ganj
U/s: 379, 411, 34 IPC

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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

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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

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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.

It is stated in the application that he was picked up at night from the house on the intervening night of 21-22/09/2020; that nothing is recovered from him except the planted recovery; that investigation is complete and chargesheet

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is already filed. As such, he is no more required for investigation; that allegations against the accused are only under section 411 IPC; that he is the only bread earner of his family and due to pandemic situation his family is entirely dependent upon him and there is no one to look after his family; that he is neither a convict nor habitual offender; As such, it is prayed that he be granted regular bail.

On the other hand, in reply dated 21/12/2020 filed by HC Ram Meena, as also argued by learned Addl.PP for the State it is stated that stolen bike in question is recovered from the present accused by the special staff Central District; that he is a drug addict; that he may involve in similar cases if released on bail; that he is involved in 5-6 other criminal cases of similar nature. As such, present bail application is strongly opposed.

In the present case, the maximum punishment of the offences alleged against the present accused is 3 years. The allegations against the accused are u/s 411 IPC only. Further, as far as present accused is concerned, nothing remains to be recovered at his instance. In fact, the period for seeking police remand is already over. But having noted so, it is stated by the IO that his presence may not be secured if he is released on bail. But appropriate terms can be imposed to secure his presence. As such, no purpose would be served by keeping such accused in JC. Trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case of present nature. In present case, no previous conviction or even involvement in criminal cases is placed on record by the IO.

In above facts and circumstances, such accused is granted bail subject to furnishing of **personal bond in the sum of Rs. 10,000/- with two sound sureties of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

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

evidence.

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

vi) He shall also provide his mobile number to the IO and further share his location through mobile phone once in everyweek till filing of chargesheet and thereafter as may be directed by the learned Trial Court.

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

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

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

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

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

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

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jail in some other case.

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

The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain through electronic mode. Copy of this order be sent to concerned Jail Superintendent. Copy of this order be sent to IO / SHO concerned. Copy of order be uploaded on website.

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

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ASJ-04(Central/Delhi
22.12.2020**

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

Applications Nos.: 2206, 2207, 2208, 2209 & 2210/2020
State Vs Gaurav Yadav
FIR No.168,166, 163, 162 & 161 /2020
P. S. Rajinder Nagar
U/s: 379, 411, 34 IPC

22/12/2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Mr. Atul Chaturvedi, learned counsel for accused through VC.

Vide this common order, 5 bail applications u/s 439 Cr.PC filed by applicant through counsel is disposed off.

It is stated in the application that he is in JC since 22/09/2020; he has been falsely implicated in this case; that recovered, if any, has been wrongly planted upon him; that earlier his bail application was rejected by learned MM; that it is a case of discharge as IO has not filed any evidence with regard to ECM system as alleged from applicant and that ECM system belonged to the same car; that police of different police stations have falsely implicated him in different e-FIRs where he has been bound down and not arrested; that no evidence is filed by the IO with regard to alleged recovery of ECM system belong to those car; that he is a young age person and his aged mother is depended upon him and there is no one to look after her; As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by the IO, as also argued by learned Addl.PP for the State it is stated that the present case was registered on complaint of complainant where complainant mentioned in his complaint that ECM of his vehicle had been stolen. Accuse Gaurav Yadav and Shivam Nanhe were caught red handed in case FIR No. 168/2020, U/S 379/411/34 IPC, PS Rajinder Nagar, with 4 ECMs and stolen ECMs of above-mentioned

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FIR No.168,166, 163, 162 & 161 /2020
P. S. Rajinder Nagar
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case also had been recovered from their possession. During the course of interrogation 13 more ECMs of other cases also had been recovered from accuse Gaurav Yadav and Shivam Nanhe on their disclosure including of the present case. Applicant accused does not have permanent address of Delhi and he has previous involvement in other similar offences. As such, present bail application is strongly opposed.

I have heard both the sides.

The personal liberty is a priceless treasure for a human being. It is founded on the bed rock of constitutional right and accentuated further on human rights principle. The sanctity of liberty is the fulcrum of any civilized society. Deprivation of liberty of a person has enormous impact on his mind as well as body. Further article 21 Of the Constitution mandates that no person shall be deprived of his life or personal liberty except according to procedure established by law. Further India is a signatory to the International Covenant On Civil And Political Rights, 1966 and, therefore, Article 21 of the Constitution has to be understood in the light of the International Covenant On Civil And Political Rights, 1966. *Further* Presumption of innocence is a human right. Article 21 in view of its expansive meaning not only protects life and liberty, but also envisages a fair procedure. Liberty of a person should not ordinarily be interfered with unless there exist cogent grounds therefor. The fundamental principle of our system of justice is that a person should not be deprived of his liberty except for a distinct breach of law. If there is no substantial risk of the accused fleeing the course of justice, there is no reason why he should be imprisoned during the period of his trial. The basic rule is to release him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor

State Vs Gaurav Yadav
FIR No.168,166, 163, 162 & 161 /2020
P. S. Rajinder Nagar
U/s: 379, 411, 34 IPC

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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

*State Vs Gaurav Yadav
FIR No.168,166, 163, 162 & 161 /2020
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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,

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(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

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trial. Court is not required to undertake meticulous examination of evidence while granting or refusing bail u/s 439 of the CrPC.

In the present case, the maximum punishment of the offences alleged against the present accused is 3 years. It is a matter of record that accused is in JC and period to seek PC remand is already over. The allegations against the accused are u/s 411 IPC only. Further, as far as present accused is concerned, nothing remains to be recovered at his instance. As such, no purpose would be served by keeping such accused in JC. Trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case of present nature. In present case, no previous conviction or even involvement in criminal cases is placed on record by the IO.

In above facts and circumstances, such accused is granted bail subject to furnishing of **personal bond in the sum of Rs. 10,000/- (each) with two sound sureties of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

- i) That he will appear before IO / Trial Court as and when called as per law.*
- ii) He will not indulge in any kind of activities which are alleged against him in the present case.*
- iii) That he will not leave Delhi without prior permission of the Trial Court concerned.*
- iv) He will not threaten the witness or tampering with evidence.*
- v) He shall convey any change of address immediately to the IO and the court;*
- vi) He shall also provide his mobile number to the IO and further share his location through mobile phone once in everyweek till filing of chargesheet and thereafter as may be directed by the learned Trial Court.*

*State Vs Gaurav Yadav
FIR No.168,166, 163, 162 & 161 /2020
P. S. Rajinder Nagar
U/s: 379, 411, 34 IPC*

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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:

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

*State Vs Gaurav Yadav
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P. S. Rajinder Nagar
U/s: 379, 411, 34 IPC*

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

The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain through electronic mode. Copy of this order be sent to concerned Jail Superintendent. Copy of this order be sent to IO / SHO concerned. Copy of order be uploaded on website.

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

NAVEEN KUMAR KASHYAP
(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi)
22.12.2020

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State Vs Gaurav Yadav
FIR No.168,166, 163, 162 & 161 /2020
P. S. Rajinder Nagar
U/s: 379, 411, 34 IPC

: 1 :

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

Application No.:- 2213/2020
State Vs Aamir
FIR No.201/2020
P. S. Kamla Market
U/s: 392, 411 IPC

22/12/2020

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

None for accused.

Arguments already heard. Today the case was fixed for orders.

Vide this order, bail application u/s 439 Cr.PC dated 19/12/2020
filed by applicant through counsel is disposed off.

I have heard both the sides.

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

State Vs Aamir
FIR No.201/2020
P. S. Kamla Market
U/s: 392, 411 IPC

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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

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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

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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.

It is argued on behalf of accused that he is in JC since 10/10/2020; nothing has been recovered from the possession of the accused or at his instance except the planted recovery; that investigation is already complete and he is no

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more required for investigation; that he is permanent resident of Delhi; that he was not even arrested at the spot but later on; that co-accused Sunny is already granted bail by this Court. As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by IO SI Mahesh Kumar. as also argued by learned Addl.PP for the State it is stated that present accused along with co-accused, by chopping the throat of complainant committed the robbery in question and looted three mobile phones and wallet of the complainant; that one of such mobile was recovered from the house of present accused later on. That he is rightly identified by witness Nandu Singh in TIP at Tihar. As such, present bail application is strongly opposed.

The accused was not arrested on the spot but later on. The allegations against the accused are u/s 411 IPC only. The co-accused is already granted bail by this Court. Further, in any case as far as present accused is concerned, nothing remains to be recovered at his instance. In fact, the period for seeking police remand is already over. As such, no purpose would be served by keeping such accused in JC. Trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case of present nature.

In above facts and circumstances, such accused is granted bail subject to furnishing of **personal bond in the sum of Rs. 10,000/- with two sound sureties of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

- i) That he will appear before IO / Trial Court as and when called as per law.*
- ii) He will not indulge in any kind of activities which are alleged against him in the present case.*
- iii) That he will not leave Delhi without prior permission of the Trial Court concerned.*
- iv) He will not threaten the witness or tampering with evidence.*
- v) He shall convey any change of address immediately to the IO and the court;*
- vi) He shall also provide his mobile number to the IO and further share his location through mobile phone*

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once in everyweek till filing of chargesheet and thereafter as may be directed by the learned Trial Court.

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

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

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

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

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

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

The copy of this order be sent to **Ld. MM** and also to the **Superintendent Jail** who shall also inform this court about all the three aspects as contained in the para herein above. The Superintendent Jail is also directed to inform this court if the prisoner is willingly not furnishing the personal bond or in case if he is

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unable to furnish the surety or any other reason given by the prisoner for not filing the bonds. One copy of this order be also sent to the **SHO Concerned** to ensure compliance.

The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain through electronic mode. Copy of this order be sent to concerned Jail Superintendent. Copy of this order be sent to IO / SHO concerned. Copy of order be uploaded on website.

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

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(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi)
22.12.2020

: 1 :

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

BAIL APPLICATION NO.: 2231/2020

**State v. Gagan
FIR No. :437/2020
PS: Sarai Rohilla
U/S: 392,394,411,34 IPC**

22.12.2020

Present: Mr. Pawan Kumar,Ld. Addl. PP for the State through
VC.
Mr. Atul, learned Counsel for applicant through VC.

Vide this order, the regular bail application under section 439 Cr.P.C. on behalf of accused dated 21.12.2020 filed through counsel is disposed of.

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

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

fundamental principle of our system of justice is that a person should not be deprived of his liberty except for 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

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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, it is argued that accused is falsely implicated in the present case and he is in JC since 08.11.2020. That he is a young person of 19 years only. That there is no previous criminal record of the present accused. That there is delay of sixteen hours in registration of FIR. That he is a sole bread earner of the family. That he is permanent resident of Delhi. As such, it is prayed that he be granted regular bail.

On the other hand, it is argued by the learned Addl.PP for the state that there are specific and serious allegations against the present accused. That other co-accused was a CCL. That present accused alongwith such co-accused committed the such offence by catching hold of the victim and by trying to strangulate the present complainant took out Rs. 500 and mobile phone forcefully from the pocket of complainant and even gave beatings to the complainant. That present accused was correctly identified by complainant. That his family member do not have any control over him. As such, present application is strongly opposed.

I find force in the arguments of learned Addl.PP for the state. The offence is serious in nature and is nuisance to public at large. Present accused is correctly identified by the complainant. Having regard to the nature of offence, punishment prescribed for the same and role of

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the present accused, this court do not find sufficient reasons to enlarge present accused on bail in the present case. **With these observations, present application is dismissed.**

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

Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Copy of this order be sent to IO/SHO concerned and Jail Superintendent concerned through electronic mode.

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**(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi
22.12.2020**

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

Application No.:- 2115/2020
State Vs Gautam Kumar
FIR No.13/2020
P. S. Railway Main Delhi
U/s: 379, 411, 34 IPC

22/12/2020

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

Mr N.K. Dev, learned counsel for accused through VC.

SI Rajender is also present through VC.

Vide this order, bail application u/s 439 Cr.PC dated 09/12/2020
filed by applicant through counsel is disposed off.

I have heard both the sides.

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

State Vs Gautam Kumar
FIR No.13/2020
P. S. Railway Main Delhi
U/s: 379, 411, 34 IPC

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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

State Vs Gautam Kumar
FIR No.13/2020
P. S. Railway Main Delhi
U/s: 379, 411, 34 IPC

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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

*State Vs Gautam Kumar
FIR No.13/2020
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U/s: 379, 411, 34 IPC*

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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.

It is stated in the application that he is in JC since 19/11/2020; nothing has been recovered from the possession of the accused or at his instance except the planted recovery; that there is delay in registration of FIR;

*State Vs Gautam Kumar
FIR No.13/2020
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U/s: 379, 411, 34 IPC*

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that investigation is complete and he is no more required for investigation; that allegations against the accused are only under section 411 IPC; that he is the only bread earner of his family and due to pandemic situation his family is entirely dependent upon him and there is no one to look after his family; that he is neither a convict nor habitual offender; As such, it is prayed that he be granted regular bail.

On the other hand, in reply dated 10/12/2020 filed by SI Rajender Kumar, as also argued by learned Addl.PP for the State it is stated that as per the complaint of complainant, unknown boys has snatched the hand bag of complainant's wife from running train. Applicant was arrested in this case alongwith a pair of ear rings of the victim and later on Aadhaar card voter ID card etc. which were there in the hand bang were also recovered at his instance. He further admitted that he sold the mobile phone to one Deepak for Rs.2,500/-. That he refused his TIP; that he does not have a permanent address and living on a rented accommodation; that he was earlier arrested in FIR No.9/2020 of similar nature. As such, present bail application is strongly opposed.

In the present case, the maximum punishment of the offences alleged against the present accused is 3 years. The allegations against the accused are u/s 411 IPC only. Further, as far as present accused is concerned, nothing remains to be recovered at his instance. In fact, the period for seeking police remand is already over. But having noted so, it is stated by the IO that his presence may not be secured if he is released on bail. But appropriate terms can be imposed to secure his presence. As such, no purpose would be served by keeping such accused in JC. Trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case of present nature. In present case, no previous conviction or even involvement in criminal cases is placed on record by the IO.

In above facts and circumstances, such accused is granted bail subject to furnishing of **personal bond in the sum of Rs. 10,000/- with two sound sureties 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

*State Vs Gautam Kumar
FIR No.13/2020
P. S. Railway Main Delhi
U/s: 379, 411, 34 IPC*

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alleged against him in the present case.

iii) That he will not leave Delhi without prior permission of the Trial Court concerned.

iv) He will not threaten the witness or tampering with evidence.

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

vi) He shall also provide his mobile number to the IO and further share his location through mobile phone once in every week till filing of chargesheet and thereafter as may be directed by the learned Trial Court.

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

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

“..... 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:

: 7 :

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

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

The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain through electronic mode. Copy of this order be sent to concerned Jail Superintendent. Copy of this order be sent to IO / SHO concerned. Copy of order be uploaded on website.

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

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ASJ-04(Central/Delhi)
22.12.2020

BAIL APPLICATION.: 2220/2020

State v. Anshu Tomar @ Ved Singh
FIR NO: 288/2020
PS: Lahori Gate

22.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Sh. Vikas Sharma, Ld. Counsel for applicant through VC.
Proxy IO/SI Ranvir Singh is present through VC.

This is an application for regular bail. Sections are involved u/s 376 IP apart from others.

Reply filed by IO. Copy of the same is stated to be supplied through e-mail.

Issue notice to the victim/complainant through IO to appear through VC. IO to provide all necessary arrangements/guidance to complainant for appearance through VC.

IO also to appear with case file at the time of arguments.

Put up on 28.12.2020.

Ld. Counsel for applicant wants to place some documents on record. He may file the same.

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Additional Sessions Judge-04/Central
22.12.2020

BAIL APPLICATION.: 2228/2020

**State v. Abhishek
PS: Sarai Rohilla**

22.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
None for applicant.

This is a fresh application dated 17.12.2020 for regular bail.

Heard.

Issue notice to SHO PS Sarai Rohilla to file reply.

Put up for reply, arguments and appropriate orders for 28.12.2020.

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Additional Sessions Judge-04/Central
22.12.2020**

BAIL APPLICATION.: 2229/2020

**State v. Ganga Ram Jelia
FIR No.: 481/2020
PS: Karol Bagh**

22.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Sh. Moni, Ld. counsel for applicant through VC.

Reply filed by IO.

Part arguments heard.

Issue notice to the complainant through IO to appear through VC at the time of further arguments. In the meanwhile, IO is directed not to take any coercive action against the present applicant provided he fully co-operate with investigation.

Put up for further arguments on 14.01.2021.

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Additional Sessions Judge-04/Central
22.12.2020**

BAIL APPLICATION.: 2106/2020

**State v. Inam Ur Rehman
FIRNO: 210/2020
PS: Sarai Rohilla**

22.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Sh. Dharmendra Kr. Mishra, Ld. counsel for applicant through VC.

It is stated by learned counsel that accused is now already arrested by the police in the present case. As such, present second bail application u/s 438 Cr.P.C. has become infructuous.

Heard.

In view of the same, present application is disposed of as issue in question is no more survives as it is already infructuous.

Copy of this order be provided to both parties through electronic mode.

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Additional Sessions Judge-04/Central
22.12.2020**

BAIL APPLICATION.: 1979/2020

**State v. Tarjit Singh Gambhir & Anr.
FIR No.:206/2020
PS: Rajinder Nagar**

22.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Senior counsel Ms. Geeta Luthra alongwith Sh. Ujjawal Jain, Ld.
Counsel for applicant through VC.
Sh. Damanpreet Singh, Ld. Counsel for complainant.

It is submitted by Sh. Ujjawal Jain, Ld. Counsel that fresh reply dated 21.12.2020 by SI Soni Lal is received by them through e-mail today morning only. It is further argued by learned Senior counsel that after going through the same, there is a clear cut improvement and Section 109 IPC is added which was not there in the original FIR as well as in the previous reply filed in this case.

Let IO to appear with case file through VC tomorrow at 2 pm on this limited aspect only.

Put up for further orders/clarifications on 23.12.2020.

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Additional Sessions Judge-04/Central
22.12.2020**

BAIL APPLICATION.:1613/2020
BAIL APPLICATION :1616/2020
BAIL APPLICATION :1618/2020

State v. Md. Shamshad Qureshi
State v. Nishad Begum
State v. Sajid
FIR No.: 161/2020
PS: I.P. Estate

22.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
None despite repeated calls.

Matter was kept for further arguments/clarifications.

**Put up for further arguments, clarifications and appropriate orders
for 08.01.2021.**

Interim order, if any to continue in terms of previous order.

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Additional Sessions Judge-04/Central
22.12.2020

BAIL APPLICATION.:2062/2020

State v. Sunny Sethi
FIR no.: 272/2020
PS: I.P Estate
U/S: 420,406,411 IPC

22.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Sh. Manish Arora, Ld. Counsel for applicant through VC.

Vide this order, third regular bail application of the accused/applicant Sunny Sethi dated 02.12.2020 is disposed off.

Arguments in detail already heard.

Today, clarifications given by Ld. Addl. PP for the state in terms of previous order.

All the arguments which are stated in para-1 to 11 are already taken by such accused in his earlier two bail applications. Apart from that it is further argued by learned counsel for accused that now chargesheet is already filed. As such, it is prayed that he be granted regular bail.

On the other hand, it is submitted by IO as also argued by learned Addl. PP for the state that in fact chargesheet is filed and specific role of the accused has emerged during the investigation. That complainant had correctly identified the accused during TIP. As such, present bail application is strongly opposed.

I find force in the arguments of learned Adll. PP for the state. There is no material change in the circumstances except that the chargesheet is filed but even in such chargesheet role of the accused/applicant is established as per the prosecution and he is correctly identified by the victim during TIP. Therefore, having regard to the nature of the offence and the manner in which it is committed and reasons already assigned during dismissal of earlier bail applications on 11.10.2020 and 04.11.2020, this court is not inclined to grant bail to the present accused. **With these**

observations, present bail application is dismissed.

Copy of this order be provided to both the side through electronic mode. Copy of this order be also sent to Jail Superintendent concerned through electronic mode.

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Additional Sessions Judge-04/Central
22.12.2020**

BAIL APPLICATION.: 2152/2020
BAIL APPLICATION.: 2234/2020

State v. Varun Walia
FIR NO: 349/2020
FIR NO.: 357/2020
PS: Lahori Gate

22.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Sh. Chander Maini, Ld. Counsel for applicant through VC.
Sh. Rajesh Baweja, Ld. Counsel for complainant through VC.
One of the IO SI Sandeep is also present through VC.

Arguments in detail heard from all the sides.

Ld. Counsel for complainant also relied upon certain documents, reply as well as case laws through e-mail. Same are also taken on record.

Put up for orders/clarifications for tomorrow i.e. 23.12.2020.

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Additional Sessions Judge-04/Central
22.12.2020

BAIL APPLICATION.: 2205/2020
BAIL APPLICATION.: 2212/2020

State v. Chander Shekhar
FIR NO: 349/2020
FIR NO.: 357/2020
PS: Lahori Gate

22.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Sh. R.K. Wadhwa, Ld. Counsel for applicant through VC.
Sh. Rajesh Baweja, Ld. Counsel for complainant through VC.
One of the IO SI Sandeep is also present through VC.

Arguments in detail heard from all the sides.

Ld. Counsel for complainant also relied upon certain documents, reply as well as case laws through e-mail. Same are also taken on record.

Put up for orders/clarifications for tomorrow i.e. 23.12.2020.

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Additional Sessions Judge-04/Central
22.12.2020

BAIL APPLICATION.: 2221/2020
BAIL APPLICATION.: 2223/2020

State v. Vimal Bhasin
FIR NO: 357/2020
FIR NO.: 349/2020
PS: Lahori Gate

22.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Sh. Mukesh Yadav, Ld. Counsel for applicant through VC.
Sh. Rajesh Baweja, Ld. Counsel for complainant through VC.
One of the IO SI Sandeep is also present through VC.

Arguments in detail heard from all the sides.

Ld. Counsel for complainant also relied upon certain documents, reply as well as case laws through e-mail. Same are also taken on record.

Put up for orders/clarifications for tomorrow i.e. 23.12.2020.

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Additional Sessions Judge-04/Central
22.12.2020

BAIL APPLICATION.:1957/2020

**State v. Rahul @ Dadu
FIR NO: 425/2019
PS: Karol Bagh**

22.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Sh. Faheem Alam, Ld. Counsel for applicant through VC.

Further arguments heard.

It is stated that next date of hearing before Hon'ble High Court on the bail application of co-accused Govind is 06.01.2021.

In the interest of justice, put up for further arguments, clarifications/orders on **07.01.2021**.

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Additional Sessions Judge-04/Central
22.12.2020**

BAIL APPLICATION.:2235/2020

**State v. Mahesh @ mannu
FIR NO: 425/2019
PS: Karol Bagh**

22.12.2020

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Sh. Rajeev Pratap Singh, Ld. Counsel for applicant through VC.

Arguments in detail heard.

It is stated that next date of hearing before Hon'ble High Court on the bail application of co-accused Govind is 06.01.2021.

In the interest of justice, put up for further arguments, clarifications/orders on **07.01.2021**.

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Additional Sessions Judge-04/Central
22.12.2020**

Bail Matters No.: 2232/2020
State Vs Mujeebuddin
FIR No.:172/2020
PS: Kamla Market

22/12/2020

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

Proxy counsel for applicant / accused through VC.

This is the second anticipatory bail application dated 19/12/2020 filed by the applicant through counsel.

Reply filed by the IO.

It is stated that main arguing counsel is not well. As such, adjournment is sought.

Put up for arguments and appropriate orders for **29/12/2020**.

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(Naveen Kumar Kashyap)
ASJ-04/Central/22.12.2020

Bail Matters No.: 1537/2020
State Vs Sonu @ Amrit Kundra
FIR No.: 251/2019
PS: Prasad Nagar

22/12/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.
Mr. Prabhat, learned counsel for non applicant / accused.
None for complainant / applicant.

An application for cancellation of interim bail granted to the accused Sonu @ Amrit Kundra is filed by the complainant dated 13/10/2020.

Arguments already heard on the same.

It may be noted that the interim bail is being extended at present by virtue of order passed by Hon'ble Supreme Court in SLP (Civil) 13021 /2020 in which the order passed by Hon'ble High Court of Delhi for surrendering to the Jail about the accused person who are granted interim bail on merit is stayed and now the matter is pending before the Hon'ble Supreme Court for 21/01/2021.

As such, put up for further appropriate order on this cancellation of bail application on merit for **22/01/2021**.

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(Naveen Kumar Kashyap)
ASJ-04/Central/22.12.2020

Bail Matters No.: 692/2020
State Vs Sonu Kundra @ Amrit Kundra
FIR No.:251/2019
PS: Prashad Nagar

22/12/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.
Mr. Prabhat, learned counsel for applicant / accused.
None for complainant.

Further arguments / clarification given by learned counsel for the applicant / accused on this regular bail application.

Accused is on interim bail at present by virtue of Hon'ble Supreme Court.

Put up for further arguments, if any, / order / clarification for **22/01/2021**.

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(Naveen Kumar Kashyap)
ASJ-04/Central/22.12.2020

State Vs Sakir
(Application for withdraw surety of Tajim)
FIR No. 267/2015
P. S. Darya Ganj

22.12.2020

This Court is also discharging bail roster duty.

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

None for the applicant.

This is an application for withdrawal of surety of accused Tajim.

Put up for appropriate orders / proceedings for **21/01/2021**.

(Naveen Kumar Kashyap)
ASJ-04/Central/22.12.2020

State Vs Imran @ Akhtar Khan & Ors
(Application for Vishal @ Honey)
FIR No. 227/2020
P. S. Wazirabad

22.12.2020

This Court is also discharging bail roster duty.

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

Mr. Rajesh proxy counsel for applicant.

Today the case was fixed for orders / clarification.

Certain clarification is required regarding previous involvement of the present accused as well as role of the present accused in conspiracy in question. IO to appear in person with case file on the next date of hearing.

Put up for clarification, orders tomorrow i.e. **23/12/2020**.

(Naveen Kumar Kashyap)
ASJ-04/Central/22.12.2020

State Vs Raj Bahadur & others
(Application for bail of Surender Kumar Verma)
FIR No. 130/2014
P. S. Kamla Market

22.12.2020

This Court is also discharging bail roster duty.

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

Mr. J.S. Mishra, learned counsel for applicant through VC.

Accused is stated to be on interim bail.

This is a fresh application seeking regular bail filed on behalf of applicant / accused Surender Kumar Verma moved through counsel.

Issue notice of this application to IO for the next date of hearing.

Put up for reply, arguments and appropriate orders for **19/01/2021**.

(Naveen Kumar Kashyap)
ASJ-04/Central/22.12.2020

SC No.: 468/2020
FIR No. 261/2020
PS Burari
U/s 307, 323, 509, 34 IPC
State Vs Roshan Kumar Mishra & Anr

22.12.2020

Undersigned is also discharging work of Bail Roster duty.
Fresh case received by way of assignment. It be checked and registered separately.
Present: Mr. Pawan Kumar, learned Addl.PP for the State through VC.
Both the accused are stated to be in JC.

Issue production warrant of both the accused through VC for the next date of hearing.

Put up for **19/02/2020**.

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(Naveen Kumar Kashyap)
ASJ-04/Central/22.12.2020