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

Bail Application No.: 1574/2020
State Vs Gautam s/o Mahipal Singh
FIR No.32/2020
P. S.Kamla Market
U/s: 365, 394, 397, 411, 34 IPC

24/11/2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Mohd. Wasim Khan, learned counsel for the applicant through VC.

Vide this order, bail application u/s 439 Cr.PC dated 15/10/2020 filed by applicant through counsel is disposed off.

It is stated in the application that he is an innocent person and has been falsely implicated in the present case; that chargesheet has already been filed; that co-accused has already been granted bail; that he is in JC since 14/02/2020; that he is neither previously convicted nor has been involved in any other case and has a clean antecedent; that he was lifted by the police from his native place in Jhajjar Haryana; that he has to look after his widow mother and unmarried sister; that the trial will take long time and no purpose would be served by keeping him in JC. 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 present accused alongwith

Bail Application No.: 1574/2020
State Vs Gautam s/o Mahipal Singh
FIR No.32/2020
P. S.Kamla Market
U/s: 365, 394, 397, 411, 34 IPC

: 2 :

other co-accused in the night of 14/02/2020 looted the taxi of the complainant alongwith his purse etc at gun point and made the complainant drive towards Delhi boarder where complainant somehow escaped and made PCR call at Alipur. That during the course of investigation present accused was arrested in another case FIR No. 29/20 PS Punjabi Bagh and robbed taxi alongwith RC was recovered from their possession. It is further argued that offence is very serious in nature; that he came with co-accused at the place of incident alongwith his motorcycle. It is further claimed that his family do not have control over him. That he is previously involved in another similar offences. It is further claimed that robbed vehicle is recovered from him. As such, present 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,

: 3 :

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

: 4 :

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

Bail Application No.: 1574/2020
State Vs Gautam s/o Mahipal Singh
FIR No.32/2020
P. S.Kamla Market
U/s: 365, 394, 397, 411, 34 IPC

: 5 :

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**

: 7 :

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, present accused as per the prosecution not arrested but later on was arrested in some other case and found involved in the present case. As per the case of prosecution, robbed vehicle in question is recovered from him. Thus, this attract offence u/s 411 IPC. He is in JC since 14/02/2020. Further, as far as present accused is concerned, nothing remains to be recovered at his instance. In fact, the period for seeking police remand is already over. As such, no purpose would be served by keeping such accused in JC. Investigation and thereafter trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case in India i.e. an accused is presumed innocent unless proved guilty. In present case, no previous conviction record is placed on record by the IO and at best there are cases alleging involvement of present accused in other similar cases.

In above facts and circumstances, such accused is granted bail subject to furnishing of **personal bond in the sum of Rs. 25,000/- with two sound surety of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

- i) Applicant shall not flee from the justice;*
- ii) Applicant shall not tamper with the evidence;*
- iii) Applicant shall not threaten or contact in any manner to the prosecution witnesses ,*
- iv) Applicant shall not leave country without permission;*
- v) Applicant shall convey any change of address*

: 9 :

immediately to the IO and the court;

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

vii) Applicant shall mark his attendance before concerned IO (and if IO is not available then to concerned SHO) every alternative /second day through mobile by sharing his/her location with the SHO concerned till the chargesheet is filed;

viii) Applicant shall further make a call, preferably by audio plus video mode to concerned IO, (and if IO is not available then to concerned SHO) once a week, preferably on Monday between 10 a.m. to 5 p.m. till the chargesheet is filed.

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

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

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

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

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

: 10 :

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

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

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

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

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

: 11 :

this order be also sent to the **SHO Concerned** to ensure compliance.

With these observations the present application stands disposed off. Counsel for accused/applicant is at liberty to collect the order through electronic mode. Further a copy of this order be sent to concerned Jail Superintendent. Further, copy of this order be sent to IO / SHO concerned.

Before parting it may be noted that observations made in the present bail application are only for the purpose of deciding the present bail application and are not a comment on the merit of the case which is a matter of trial.

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**(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi
24.11.2020**

**Bail Application No.: 1574/2020
State Vs Gautam s/o Mahipal Singh
FIR No.32/2020
P. S.Kamla Market
U/s: 365, 394, 397, 411, 34 IPC**

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

Bail Application No.: 1941/2020

State v. Jai Prakash Meena

FIR No. : 11742/2020

P. S: Rajinder Nagar

U/s:379,411 r/w 34 IPC

24.11.2020.

This court is also discharging bail roster duty.

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

Vide this order, regular bail application u/s 439 Cr.PC dated 21.11.2020 filed through counsel is disposed of.

It is stated in such application that he has been falsely implicated in the present case; that he is in JC since 30.05.2020. That he is no more required for further investigation. That nothing is recovered from him except the planted recovery. That there is a spread of corona virus including inside the jail. That bail is a rule and jail is exception. There is no previous conviction of the accused. 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 that on a secret information present accused alongwith co-accused was arrested while they were driving scooty bearing no. DL-6SAP-4980. The present accused was sitting as pillion rider on such scooty. They disclosed that they committed theft of this scooty one week ago. As such, present bail application is strongly opposed.

I have heard both the sides.

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

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

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after convictions, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earlier times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial ,but in such case 'necessity' is the operative test. In this country, it would be quite

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

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

Further discretionary jurisdiction of courts u/s 437 and 439 CrPC should be exercised carefully and cautiously by balancing the rights of the accused and interests of the society. Court must indicate brief reasons for granting or refusing bail. Bail order passed by the court must be reasoned one but detailed reasons touching merits of the case, detailed

examination of evidence and elaborate documentation of merits of case should not be done.

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745**).

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for grant or refusal of bail to an accused in a non-bailable offence like, (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) Nature of accusation and evidence therefor, (iii) Gravity of the offence and punishment which the conviction will entail, (iv) Reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, (v) Character and behavior of the accused, (vi) Means, position and standing of the accused in the Society, (vii) Likelihood of the offence being repeated, (viii) Reasonable apprehension of the witnesses being tampered with, (ix) Danger, of course, of justice being thwarted by grant of bail, (x) Balance between the rights of the accused and the larger interest of the Society/State, (xi) Any other factor relevant and peculiar to the accused. (xii) While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be

refused. Furthermore, in the landmark judgment of **Gurucharan Singh and others v. State** (AIR 1978 SC 179), it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

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

In the present case, it is a matter of record that accused is in JC since 30.05.2020. In fact, the period for seeking police remand is already over. Further, such accused is not named in the FIR. Further, he is not arrested on the spot but later on, as per the story of prosecution while he was in pillion rider on the stolen scooty in question. Further, no purpose would be served by keeping such accused in JC. Investigation and thereafter trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case in India i.e. an

accused is presumed innocent unless proved guilty. In present case, as per reply by the IO, such accused is not found to be involved in any other criminal case.

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

- i) Applicant shall not flee from the justice;*
- ii) Applicant shall not tamper with the evidence;*
- iii) Applicant shall not threaten or contact in any manner to the prosecution witnesses ,*
- iv) Applicant shall not leave country without permission;*
- v) Applicant shall convey any change of address immediately to the IO and the court;*
- vi) Applicant shall also provide his mobile number to the IO;*
- vii) Applicant shall mark his attendance before concerned IO (and if IO is not available then to concerned SHO) every alternative /second day through mobile by sharing his/her location with the SHO concerned till the chargesheet is filed;*
- viii) Applicant shall further make a call, preferably by audio plus video mode to concerned IO, (and if IO is not available then to concerned SHO) once a week, preferably on Monday between 10 a.m. to 5 p.m. till the chargesheet is filed.*
- ix) Applicant shall keep their such mobile number 'Switched On' at all the time, particularly between 8 am to 8 pm everyday till the chargesheet is filed*
- x) That applicant will cooperate with the investigation / IO / SHO concerned and will appear before IO / Trial Court as and when called as per law.*
- xi) Applicant will not indulge in any kind of activities*

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which are alleged against him in the present case.

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

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

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

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

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

- a) The date on which conditions imposed by this court are satisfied;*
- b) The date of release of prisoner from jail;*

: 8 :

c) *Date of ultimate release of prisoner in case the prisoner is in jail in some other case.*

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

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

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(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi)
24.11.2020

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

Bail Application No.:1798/2020

State v. Heera
CDRN No. : 191/2020
P. S: Rajinder Nagar
U/s: 380,411,34 IPC

24.11.2020.

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

Vide this order, regular bail application u/s 439 Cr.PC dated 05.11.2020 filed through counsel is disposed of.

It is stated in the application that he has been falsely implicated in the present case; that he is in JC since 03.10.2020. That case property is already recovered and he is not more required for investigation. It is further stated that chargesheet is already filed. Co-accused Amir Singh is already granted regular bail by the learned Sessions Court. As such, it is stated 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 that both such accused were found carrying the stolen case property in CCTV footage. That they were arrested later on based on secret information. That such accused is involved in six other similar matters in the year 2000/2001. It is further argued that he may threaten complainant and his family members. As such, bail application is opposed.

The personal liberty is a priceless treasure for a human being. It is founded on the bed rock of constitutional right and accentuated further on human rights principle. The sanctity of liberty is the fulcrum of any civilized society. Deprivation of liberty of a person has enormous

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

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after convictions, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earlier times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial ,but in such case 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the constitution that any persons should be punished in respect of any matter, upon which,

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

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

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

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745**).

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for grant or refusal of bail to an accused in a non-bailable offence like, (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) Nature of accusation and evidence therefor, (iii) Gravity of the offence and punishment which the conviction will entail, (iv) Reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, (v) Character and behavior of the accused, (vi) Means, position and standing of the accused in the Society, (vii) Likelihood of the offence being repeated, (viii) Reasonable apprehension of the witnesses being tampered with, (ix) Danger, of course, of justice being thwarted by grant of bail, (x) Balance between the rights of the accused and the larger interest of the Society/State, (xi) Any other factor relevant and peculiar to the accused. (xii) While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. Furthermore, in the landmark judgment of **Gurucharan Singh and others v. State** (AIR 1978 SC 179), it was held that there is no hard

and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

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

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

In the present case, the maximum punishment of the offences alleged against the present accused is 7 years. It is a matter of record that accused is in JC since 03.10.2020. 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 in India i.e. an accused is presumed innocent unless proved guilty. In present case, there is no other criminal involvement found of the present accused. Chargesheet is already filed.

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) Applicant shall not flee from the justice;*
- ii) Applicant shall not tamper with the evidence;*
- iii) Applicant shall not threaten or contact in any manner to the prosecution witnesses ,*
- iv) Applicant shall not leave country without permission;*
- v) Applicant shall convey any change of address immediately to the IO and the court;*
- vi) Applicant shall also provide his mobile number to the IO;*
- vii) Applicant shall mark his attendance before concerned IO (and if IO is not available then to concerned SHO) every alternative /second day through mobile by sharing his/her location with the SHO concerned till the chargesheet is filed;*
- viii) Applicant shall further make a call, preferably by audio plus video mode to concerned IO, (and if IO is not available then to concerned SHO) once a week, preferably on Monday between 10 a.m. to 5 p.m. till the chargesheet is filed.*
- ix) Applicant shall keep their such mobile number 'Switched On' at all the time, particularly between 8 am to 8 pm everyday till the chargesheet is filed*
- x) That applicant will cooperate with the investigation / IO / SHO concerned and will appear before IO / Trial Court as and when called as per law.*
- xi) Applicant will not indulge in any kind of activities which are alleged against him in the present case.*

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

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

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

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

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

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

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

Before parting it may be noted that observations made in the present bail application are only for the purpose of deciding the present bail application and are not a comment on the merit of the case which is a matter of trial.

NAVEEN KUMAR KASHYAP
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**(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi
24.11.2020**

: 1 :

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

Bail Application No.:1607/2020

State v. Parvez @ Pachhu
FIR No. : 234/2020
P. S: Prasad Nagar
U/s: 457,380,411 IPC

24.11.2020.

This court is also discharging bail roster duty.

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

Vide this order, regular bail application u/s 439 Cr.PC dated 20.10.2020 filed through counsel is disposed of.

It is stated in such application that he has been falsely implicated in the present case; that he is in JC since 01.09.2020. That he is no more required for further investigation. That nothing is recovered from him except the planted recovery. That there is a spread of corona virus including inside the jail. That bail is a rule and jail is exception. There is no previous conviction of the accused. That he was arrested based on disclosure only. 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 that he was arrested in another matter with stolen articles of present case and as such, was formerly arrested in present case. But no further case property could be recovered even after taking PC remand. That he is involved in other criminal cases of similar nature. As such, present bail application is opposed.

I have heard both the sides.

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

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

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after convictions, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earlier times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial ,but in such case 'necessity' is the operative test. In this country, it would be quite

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

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

Further discretionary jurisdiction of courts u/s 437 and 439 CrPC should be exercised carefully and cautiously by balancing the rights of the accused and interests of the society. Court must indicate brief reasons for granting or refusing bail. Bail order passed by the court must be reasoned one but detailed reasons touching merits of the case, detailed

examination of evidence and elaborate documentation of merits of case should not be done.

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745**).

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for grant or refusal of bail to an accused in a non-bailable offence like, (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) Nature of accusation and evidence therefor, (iii) Gravity of the offence and punishment which the conviction will entail, (iv) Reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, (v) Character and behavior of the accused, (vi) Means, position and standing of the accused in the Society, (vii) Likelihood of the offence being repeated, (viii) Reasonable apprehension of the witnesses being tampered with, (ix) Danger, of course, of justice being thwarted by grant of bail, (x) Balance between the rights of the accused and the larger interest of the Society/State, (xi) Any other factor relevant and peculiar to the accused. (xii) While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be

refused. Furthermore, in the landmark judgment of **Gurucharan Singh and others v. State** (AIR 1978 SC 179), it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

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

In the present case, it is a matter of record that accused is in JC since 01.09.2020. In fact, the period for seeking police remand is already over. Further, such accused is not named in the FIR. Further, he is not arrested on the spot but later on based on disclosure statement. Further, no purpose would be served by keeping such accused in JC. Investigation and thereafter trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case in India i.e. an accused is presumed innocent unless proved guilty. In

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present case, as per reply by the IO, such accused is not found to be involved in any other criminal case.

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

- i) Applicant shall not flee from the justice;*
- ii) Applicant shall not tamper with the evidence;*
- iii) Applicant shall not threaten or contact in any manner to the prosecution witnesses ,*
- iv) Applicant shall not leave country without permission;*
- v) Applicant shall convey any change of address immediately to the IO and the court;*
- vi) Applicant shall also provide his mobile number to the IO;*
- vii) Applicant shall mark his attendance before concerned IO (and if IO is not available then to concerned SHO) every alternative /second day through mobile by sharing his/her location with the SHO concerned till the chargesheet is filed;*
- viii) Applicant shall further make a call, preferably by audio plus video mode to concerned IO, (and if IO is not available then to concerned SHO) once a week, preferably on Monday between 10 a.m. to 5 p.m. till the chargesheet is filed.*
- ix) Applicant shall keep their such mobile number 'Switched On' at all the time, particularly between 8 am to 8 pm everyday till the chargesheet is filed*
- x) That applicant will cooperate with the investigation / IO / SHO concerned and will appear before IO / Trial Court as and when called as per law.*
- xi) Applicant will not indulge in any kind of activities which are alleged against him in the present case.*

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

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

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

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

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

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

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is in jail in some other case.

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

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

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(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi)
24.11.2020

Bail Application.:1527/2020

**State v. Mohd. Hassan
FIR no.: 176/2020
PS: Sarai Rohilla**

24.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
None for applicant.

**Put up for appearance of learned counsel for accused, arguments
and appropriate orders on 14.12.2020.**

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**(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
24.11.2020**

At this stage,

Sh. Nagendra Singh, learned counsel for applicant appeared and at his request matter is taken up as he could not appear in the morning.

Despite issuance of **show cause notice to IO through DCP concerned**, no reply received from DCP as well as from IO nor he is present. As such, issue fresh show cause notice to IO through DCP concerned. Further, **issue notice to DCP concerned** as to why the previous order is not complied.

Put up on 28.11.2020. Such notices be issued forthwith.

Earlier date 14.12.2020 stands cancelled.

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**(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
24.11.2020**

Bail Application.:1607/2020

State v. Parvez @ Pachhu
FIR no.: 234/2020
PS: Prasad Nagar

24.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
None for applicant.

**Put up for appearance of learned counsel for accused, arguments
and appropriate orders on 14.12.2020.**

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Additional Sessions Judge-04/Central
24.11.2020

At this stage,

Sh. Ravinder Kumar, Ld counsel appeared. At his request, matter is taken up today itself.

Arguments heard.

Put up for orders at 4 pm.

Earlier date 14.12.2020 stands cancelled.

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Additional Sessions Judge-04/Central
24.11.2020

Bail Application.:1957/2020

State v. Rahul @ Dadu
FIR no.: 425/19
PS: Karol Bagh

24.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
None for applicant.

Reply filed. Copy already supplied through e-mail.

Put up for appearance of learned counsel for accused, arguments and appropriate orders on 14.12.2020.

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(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
24.11.2020

At this stage

Sh. Faheem Alam, Ld counsel for applicant appeared. He states that he could not appear in the morning.

Arguments heard in detail from both sides.

Put up for orders/clarifications, if any on 26.11.2020.

Date of 14.12.2020 stands cancelled accordingly.

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(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
24.11.2020

Bail Application.:1958/2020

**State v. Nitin Kansal
FIR no.: 263/2020
PS: Prasad Nagar**

24.11.2020

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

Sh. Ramesh Gupta, Senior counsel and Sh. Shailender

Singh, Ld. Counsels for applicant through VC.

IO SI Sanjay Kumar is present through VC.

Part arguments heard.

Put up for further arguments including filing of
MLC of victim and statement u/s 164 Cr.P.C. to the court only.

Put up on 28.11.2020.

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**(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
24.11.2020**

Bail Application.:1665/2020

State v. Mitu Kumar
FIR no.: 53/2019
PS: NDRS

24.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Sh. Rajan Rai Dua, Ld. Counsel for applicant through VC.

IO not present nor further reply filed.

Issue notice to IO to file further reply in terms of order dated 06.11.2020 regarding TIP proceedings, if any and application moved by co-accused if any.

Put up on 26.11.2020.

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(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
24.11.2020

Bail Matters No.: 1942/2020 & 1944/2020
State Vs Mehatbuddin @ Babli & Shakeel Ahmad
FIR No.: 189/2020
PS: Hauz Qazi

24/11/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.
Ms. Keerti gupta, learned counsel for the applicant through VC.
IO also present through VC.

In these two matters, next date inadvertently mentioned as 24/12/2020 whereas the actual date was given for order / clarification for today i.e. 24/11/2020. Same is clarified today and file is taken up accordingly.

Clarification given by the IO.

Arguments already heard in detail on this anticipatory bail application.

It is admitted position that accused are the members of RWA of the area in question. It further appears from record that building in question is involved in unauthorized construction. It further appears from record that even certain stay orders granted by Hon'ble High Court on the petition of such RWA regarding the building in question House No.1814, Katra Sheikh Chand Lal Kuan Delhi-06. It further appears that accused persons went to such building on the date of incident opposing the unauthorized constructions still try to be carried out. It is further clarified by the IO today that the complainant side even broken the seal illegally of the building in question and proper intimation to the MCD already made by the police and necessary criminal action would be taken in due course.

Under these circumstances, without commenting upon the merits and outcome of the present bail applications, both the accused / applicants are directed to join investigation as and when directed by the IO / SHO as per law including at 2:00 PM tomorrow. Further IO / SHO is directed not to take any coercive action against the accused till next date of hearing

Put up for further appropriate orders / clarification for **28/11/2020** for further arguments and order. IO to also appear through VC with case file on the next date of hearing.

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Date: 2020.11.24
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(Naveen Kumar Kashyap)
ASJ-04/Central/24.11.2020

Bail Matters No.: 1957/2020
State Vs Rahul @ Dadu
FIR No.: 425/2019
PS: Karol Bagh

24/11/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.
Mr. S.N. Shukla, learned counsel for the applicant through VC.

Case file is required for the purpose of orders on this bail application.

Put up for orders with case file for tomorrow i.e. **25/11/2020**.

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Date: 2020.11.24 15:34:26
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(Naveen Kumar Kashyap)
ASJ-04/Central/24.11.2020

CR No.: 205/2019
Mohan Lal Kalra & Anr Vs Bharat Lal and Ors.

24/11/2020

Present: Mr. C. Prakash, learned counsel for revisionist through VC.
Mr. Milan Srivastava, learned counsel for Respondent No.2 to 4 through VC.

Certain case law filed by the counsel for the revisionist today.

Put up for orders / clarification, if any, for tomorrow i.e. **25/11/2020**.

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Date: 2020.11.24
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(Naveen Kumar Kashyap)
ASJ-04/Central/24.11.2020

State Vs Ram Nawal
(Bail Application of Ram Nawal @ Parsuram)
FIR No. 327/2016
PS Roop Nagar

24/11/2020

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

Mr. Sushil Kumar, learned counsel for the applicant through VC.

Case file is required for the purpose of orders on this bail application.

Put up for orders with case file for tomorrow i.e. **25/11/2020**.

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Date: 2020.11.24 15:34:58
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(Naveen Kumar Kashyap)
ASJ-04/Central/24.11.2020

BAIL APPLICATION

**_ State v. Taufiq
(applicant Sunny)
FIR No. : 20/2016
PS: Crime Branch
U/S: 364A,395,342,420,468,471,120B IPC**

24.11.2020

Undersigned is also discharging bail roster duty.

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

**Put up for appearance of learned counsel for accused Sunny,
arguments and appropriate order on 14.12.2020.**

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**(Naveen Kumar Kashyap)
ASJ-04/Central/24.11.2020**

At this stage,

Sh. Harshvardhan Sharma, Ld. Counsel for applicant appeared.

At his request, earlier date i.e. 14.12.2020 is changed to 02.12.2020.

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Date: 2020.11.24 15:35:54
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**(Naveen Kumar Kashyap)
ASJ-04/Central/24.11.2020**

BAIL APPLICATION

**_ State v. Sanjay
(applicant Akshay)
FIR No. : 231/2016
PS: Sadar Bazar
U/S: 307 IPC**

24.11.2020

Undersigned is also discharging bail roster duty.

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.
Sh. P.K. Garg, Ld. Counsel for applicant Akshay through VC.

Arguments in detail heard.

Put up orders/clarifications, if any with case file on 25.11.2020.

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(Naveen Kumar Kashyap)

ASJ-04/Central/24.11.2020

BAIL APPLICATION

**_ State v. Ritesh
FIR No. : 113/2018
PS: Pahar Ganj
U/S: 326-A IPC**

24.11.2020

Undersigned is also discharging bail roster duty.

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.
Sh. P.K. Garg, Ld. Counsel for applicant Akshay through VC.

Arguments in detail heard.

Put up orders/clarifications, if any with case file on 25.11.2020.

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(Naveen Kumar Kashyap)

ASJ-04/Central/24.11.2020

BAIL APPLICATION

**_ State v. Deepak @ Bunty
(applicant Ajay Sharma @ Lucky)
FIR No. : 506/2015
PS: Nabi Karim
U/S: 364A,120B,506,34 IPC**

24.11.2020

Undersigned is also discharging bail roster duty.

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.
Ms. Archana Sharma, Ld. Counsel for applicant Ajay Sharma @
Lucky through VC.

Part arguments heard.

Put up for further arguments on 28.11.2020.

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(Naveen Kumar Kashyap)

ASJ-04/Central/24.11.2020

BAIL APPLICATION

_ State v. Sunder
FIR No. : 252/2016
PS: Kotwali
U/S: 392,397,34 IPC

24.11.2020

Undersigned is also discharging bail roster duty.

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

Put up for appearance of counsel, arguments and orders on 14.12.2020.

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ASJ-04/Central/24.11.2020

BAIL APPLICATION

_ State v. Adil @ Shahzada
FIR No. : 20/2015
PS: Kamla Market
U/S: 302,396,412,34 IPC

24.11.2020

Undersigned is also discharging bail roster duty.

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.
None for applicant Adil.
IO Insp. Shyoram through VC.

Put up for appearance of counsel, arguments and appropriate orders on

15.12.2020.

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(Naveen Kumar Kashyap)

ASJ-04/Central/24.11.2020

BAIL APPLICATION

**State v. Rakesh @ Sonu
(Applicant Hamid-ul-Islam)
FIR No. : 1227/2016
PS: NDRS
U/S: 392,394,34 IPC**

24.11.2020

Undersigned is also discharging bail roster duty.

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.
Sh. S.N. Shukla, LAC for accused through VC.

This application is for grant of regular bail dated 04.11.2020.

Issue notice to IO to file reply.

Put up for reply, arguments and appropriate orders on 15.12.2020.

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(Naveen Kumar Kashyap)

ASJ-04/Central/24.11.2020

SC: 27810/2016
State v. Fareed Ahmad
FIR No.: 266/2014
PS: Chandni Mahal

24.11.2020

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

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

Undersigned is also discharging work of Bail Roster duty.

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

Put up for PE in terms of previous order for 30.03.2021.

Issue P/w of the accused, if any in JC through VC for next date of hearing.

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(Naveen Kumar Kashyap)
ASJ-04/Central/24.11.2020

SC: 27287/2016
State v. Ajay
FIR No.: 264/2015
PS: Subzi Mandi

24.11.2020

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

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

Undersigned is also discharging work of Bail Roster duty.

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

Sh. Jabbar Hussain, Ld. Counsel for accused, who is stated to be on interim bail.

Put up for PE in terms of previous order for 30.03.2021.

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(Naveen Kumar Kashyap)
ASJ-04/Central/24.11.2020

SC: 473/2018
State v. Vishal Singh @ Chhotu
FIR No.: 148/2018
PS: Sarai Rohilla

24.11.2020

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

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

Undersigned is also discharging work of Bail Roster duty.

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

Put up for PE in terms of previous order for 31.03.2021.

Issue P/w of the accused, if any in JC through VC for next date of hearing.

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(Naveen Kumar Kashyap)
ASJ-04/Central/24.11.2020

SC: 572/2019
State v. Shankar Kr Jha @ moment @ Vikash
FIR No.:14/2019
PS: Subzi Mandi Rly Station

24.11.2020

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

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

Undersigned is also discharging work of Bail Roster duty.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Accused Varun S/o Nand Lal from Tihar Jail no. 3 through VC
alongwith counsel Sh. Shailendra Mishra.
Sh. S.N. Shukla, LAC for accused Shankar Kr. Jha who is stated to be on
interim bail through VC.

Put up for PE in terms of previous order for 31.03.2021.

Issue P/w of the accused, if any in JC through VC for
next date of hearing.

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(Naveen Kumar Kashyap)
ASJ-04/Central/24.11.2020

Crl. Rev.: 169/2020
Firoz v. State

24.11.2020

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

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

Undersigned is also discharging work of Bail Roster duty.

Present: None.

Put up for consideration/appropriate order for 25.11.2020.

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Date: 2020.11.24
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(Naveen Kumar Kashyap)
ASJ-04/Central/24.11.2020

CrI. Rev.: 170/2020
Kursheed v. State

24.11.2020

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

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

Undersigned is also discharging work of Bail Roster duty.

Present: None.

Put up for consideration/appropriate order for 25.11.2020.

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Date: 2020.11.24
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(Naveen Kumar Kashyap)
ASJ-04/Central/24.11.2020

CrI. Rev.: 222/2020
Mahinder Kr. Aggarwal v. Jinender Jain & Anr,

24.11.2020

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

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

Undersigned is also discharging work of Bail Roster duty.

Present: None.

Put up for consideration/appropriate order for 25.11.2020.

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Date: 2020.11.24
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(Naveen Kumar Kashyap)
ASJ-04/Central/24.11.2020