

e-FIR No. 000779/19
PS I.P. Estate
State Vs. Unknown (through applicant Rajiv Thakur)

03.09.2020

(Through Video Conferencing over Cisco Webex Meeting)
Case taken up in view of circular no. 23456-23616 DJ(HQ)/
Covid-19 Lockdown/Physical Courts Roster/2020 dt. 30.08.2020 directions
issued by Ld. District & Sessions Judge (HQ).

Present: Ld. APP for the State.
Applicant Sh. Rajiv Thakur in person.
IO/HC Sushil Kumar in person.

The present application was filed through email. Scanned copy of reply under the signatures of IO/HC Sushil Kumar is also received through email. Copy already stands supplied to applicant, electronically.

This order shall dispose off the application for release of mobile phone Vivo on Superdari, moved on behalf of applicant Rajiv Thakur.

In reply received from HC Sushil Kumar, it is stated that the mobile phone in question has been recovered from possession of accused during proceedings in connection with the present case FIR. It is further stated that the aforesaid FIR was registered on the complaint of applicant Sh. Rajiv Thakur. IO has stated that the applicant is the owner of mobile phone in question and police has no objection, if mobile phone in question is released to applicant.

For the purposes of identity applicant has sent scanned copy of bill/invoice of mobile phone and copy of his adhar ID card.

As per the report of IO/HC Sushil Kumar, since the investigation with respect to mobile phone in question is already complete, therefore, no useful purpose shall be served in further detaining it in the police custody.

In these circumstances and as per directions of *Hon'ble High Court of Delhi* in matter of "*Manjit Singh Vs. State*" in Crl. M.C. No.4485/2013 dated 10.09.2014, the aforesaid the Vivo mobile phone be released to the applicant / owner subject to the following conditions:-

1. IO shall verify the original bill/invoice of mobile phone in question from the concerned vendor from whom applicant has

purchased the mobile phone in question.

2. If applicant is found to be rightful owner of the mobile phone in question, it be released to him only subject to furnishing of indemnity bond as per its value, to the satisfaction of the concerned SHO/ IO subject to verification of documents.

3. IO shall prepare detailed panchnama mentioning the colour, IMEI NO., ownership and other necessary details of the mobile phone.

4. IO shall take the colour photographs of the mobile phone from different angles and also of the IMEI number of the mobile phone.

5. The photographs should be attested and counter signed by the complainant/applicant and accused.

IO/SHO is directed to comply with this order within 3 days of receiving the same.

The application is accordingly disposed off.

Scanned copy of this order be sent to applicant and IO/SHO concerned, electronically for necessary compliance.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.

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(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
03.09.2020

e-FIR No. 02688/20

State Vs. Unknown (through Applicant Mohd. Nadeem)

PS I.P. Estate

03.09.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of circular no. 23456-23616 DJ(HQ)/
Covid-19 Lockdown/Physical Courts Roster/2020 dt. 30.08.2020 directions
issued by Ld. District & Sessions Judge (HQ).

Present: Ld. APP for the State.

Sh. Rajesh Vashishta, Ld. Counsel for applicant.

IO/HC Manoj Kumar.

The present application was filed through email. Scanned copy of
reply under the signature of IO/HC Manoj Kumar is received through email. Copy
stands supplied to counsel for applicant, electronically.

Heard. Record perused.

This order shall dispose off application for release of vehicle DL
8SBV 0602, moved on behalf of applicant Mohd. Nadeem.

In reply received under the signatures of IO/HC Manoj Kumar, it
has been stated that the vehicle bearing no. DL 8SBV 0602 has been recovered in
connection with the present case FIR and same is registered in the name of
applicant Mohd. Nadeem. IO has stated that the investigation qua the vehicle is
complete and he has no objection, if same is released on superdari.

The applicant has sent the scanned copy of RC of vehicle and and
copy of his Adhar Card for the purposes of identity.

On perusal of the report of IO and documents appended with the
application, the applicant Mohd. Nadeem prima facie appears to be the person
entitled for custody of vehicle in question.

In these circumstances and as per directions of *Hon'ble High Court of
Delhi* in matter of "*Manjit Singh Vs. State*" in Crl. M.C. No.4485/2013 dated
10.09.2014, the aforesaid vehicle be released to the applicant / registered owner
subject to the following conditions:-

1. Vehicle in question be released to applicant/registered owner only
subject to furnishing of indemnity bonds as per the valuation of the

vehicle, to the satisfaction of the concerned SHO/ IO subject to verification of documents.

2. IO shall prepare detailed panchnama mentioning the colour, Engine number, Chasis number, ownership and other necessary details of the vehicle.

3. IO shall take the colour photographs of the vehicle from different angles and also of the engine number and the chasis number of the vehicle.

4. The photographs should be attested and counter signed by the complainant/applicant and accused.

5. IO is directed to verify the RC and insurance of the vehicle in question and release the vehicle after getting it insured by the applicant if the same is not already insured.

Scanned copy of this order be sent to Counsel for applicant and to IO/SHO concerned through email.

One copy be sent to Computer Branch, THC for uploading on Delhi District Court Website.

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(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
03.09.2020

FIR No. 192/20
State Vs. Sanwar Lal
PS Rajinder Nagar

03.09.2020

(Matter has been physically heard)
Case taken up in view of circular no. 23456-23616 DJ(HQ)/
Covid-19 Lockdown/Physical Courts Roster/2020 dt. 30.08.2020 directions
issued by Ld. District & Sessions Judge (HQ).

Present: Ld. APP for the State.

Sh.Ajesh Kumar, Ld. Counsel for applicant.

The present urgent application was filed on behalf of the applicant
on email id of this court.

Scanned copy of reply of under the signatures of IO/SI Krishan Pal, is received
through email id of the court. Copy of same is already supplied to counsel of
applicant/accused, through email.

This order shall dispose off the application for grant of bail u/s 437 Cr.PC,
moved on behalf of applicant/accused Sanwar Lal.

It is stated that the applicant is innocent and has been falsely implicated in
the present case. It is a further averred that the custodial interrogation of the
applicant/accused is no more required, nor any recovery is left to be effected from
him. It is further averred that applicant is sole bread earner of his family. With these
averments prayer is made for enlarging applicant on bail.

Ld. APP for State has opposed the present application citing
seriousness of allegations and made a prayer for dismissal of the present
application.

In the present case, the applicant was arrested for the offences u/s 454/380/511 IPC.
As per reply filed by IO/SI Krishan Pal, no recovery is left to be effected from
accused. It is also not disputed that applicant/accused is the first time offender
having no previous criminal antecedents. As no recovery of the case property is left
to be effected from the accused, coupled with the fact that the accused has never
been involved in any of the offences, and as such is having clean previous
antecedents, therefore, there does not exist any apprehension that if enlarged on
bail, he will commit offences of like nature or will dissuade the prosecution

witnesses. Further, the trial of the case would take a long time and till then the liberty of the accused cannot be curtailed, when his custody is as such not required for the investigation purposes. Even otherwise also, the presence of the accused during the course of remaining investigation, if any, as well as during trial can be ensured by taking sufficient sureties undertaking to ensure his presence. If so, in the circumstances, I am of the view that there exists no ground in further curtailing the liberty of the applicant/accused.

At this juncture, it is also pertinent to cite the observations made by the Hon'ble apex court *In Sanjay Chandra versus CBI (2012) 1SCC 40*, wherein it was observed that the courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest 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 un-convicted persons should be held in custody pending trial to secure their attendance at trial but in such cases, necessity is the operative test. The Hon'ble Apex court further observed that in this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person 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 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 that it would be improper for any court to refuse bail as a mark of this approval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for purpose of giving him a taste of imprisonment as a lesson.

In the light of the discussion made above, I am of the view that the contentions of the prosecution appears to be untenable and as such, there exists no reasonable justification, in not enlarging the applicant/accused, on bail. Accordingly, the accused/applicant Sanwar Lal is hereby ordered to be enlarged on bail, subject to following conditions;

- 1 That the applicant shall furnish personal and surety bonds in the sum of

sum of Rs.20,000/- each, to the satisfaction of Ld. Duty MM (on court duty).

- 2 That the applicant shall make himself available as and when required to do so by the investigating agency or the police;
- 3 That the applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing any facts to the court or the police;
- 4 That the applicant shall not tamper with the prosecution evidence nor he will try to win over the prosecution witnesses or terrorize them in any manner; and
- 5 That the applicant shall not deliberately and intentionally act in a manner which may tend to delay the investigation and trial of the case.
- 6 That the applicant shall not leave the territories of India during the pendency of present case proceedings except with the permission of the court.

The application is accordingly disposed of.

Scanned copy of this order be sent to the Ld. Counsel for applicant through email. One copy be also sent to concerned Jail Superintendent through all permissible modes including email at daksection.tihar@gov.in , for necessary information and compliance.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.

**RISHABH
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(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
03.09.2020

FIR No. 143/20
State Vs. Ankit @ Ashu
PS I.P. Estate

03.09.2020

(Through Video Conferencing over Cisco Webex Meeting)
Case taken up in view of circular no. 23456-23616 DJ(HQ)/
Covid-19 Lockdown/Physical Courts Roster/2020 dt. 30.08.2020 directions
issued by Ld. District & Sessions Judge (HQ).

Present: Ld. APP for the State.
Sh. S.K. Pandey, Ld. Counsel for applicant.
IO/SI Mohit Asiwal in person

The present urgent application was filed on behalf of the applicant
on email id of this court.

Scanned copy of reply of under the signatures of IO/SI Mohit Asiwal, is received
through email id of the court. Copy of same is already supplied to counsel of
applicant/accused, through email.

This order shall dispose off the application for grant of bail u/s 437
Cr.PC, moved on behalf of applicant/accused Ankit @ Ashu.

It is averred on behalf of accused/applicant that he has been
falsely implicated in the present case. It is further averred that the recovery
effected from the accused is planted one. It is further averred that the co-
accused has already been admitted on bail. It is further averred that the
accused is having family to look after and as such has no involvement in the
present case. With these averments, prayer is made for grant of bail to
accused.

Ld. APP for the State submits that the accused shall not be
released on bail as he is a habitual offender, having previous involvements.

On perusal of the previous conviction/involvement report
appended in the record, it emerges that the accused is having previous
involvements in certain other cases, involving serious offences. More
particularly, the accused has been shown to have complicity in respect of
case FIR No.109/2019 u/s 356/379/411 IPC, PS Civil Lines, FIR No. 509/19,

u/s 482 IPC & u/s 25/54/59 Arms Act, FIR No. 271/19 u/s 356/379/34 IPC, FIR No. 285/19 u/s 356/379/34 IPC, FIR No. 351/20 u/s 356/379/411/34 IPC all at PS Shashtri Park, FIR No. 1093/19 u/s 379/411/34 IPC PS Anand Vihar, FIR No. 012491/20 u/s 379/411/34 IPC, PS Gandhi Nagar and FIR No. 393/20 u/s 356/379 IPC PS Ashok Vihar. If that be so, the apprehension of prosecution that if enlarged on bail, he will commit the offences of like nature or will dissuade the material prosecution witnesses, appears to be well justified.

In such circumstances, this court is of the firm view that no ground for grant of bail is made out to the accused/applicant. Accordingly, the present application deserves dismissal and same is hereby dismissed.

The application is accordingly disposed of.

Scanned copy of this order be sent to the Ld. Counsel for applicant through email. One copy be also sent to IO/SHO concerned, through email, for necessary information.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.

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(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
03.09.2020

FIR No. 215/19
PS I.P. Estate
State Vs. Mohd. Sarif

03.09.2020

(Matter has been physically heard)

**Case taken up in view of circular no. 23456-23616 DJ(HQ)/
Covid-19 Lockdown/Physical Courts Roster/2020 dt. 30.08.2020 directions
issued by Ld. District & Sessions Judge (HQ).**

Present: Sh. Vakil Ahmed Ld. APP for State
Sh. Mohd. Jarjish, Ld. Counsel.

The present application for grant of regular bail u/s 437 Cr.PC. was filed on behalf of the applicant Mohd. Sarif, through email id of this court.

Scanned copy of reply of under the signatures of SI Deepak Kumar, is received through email id of the court. Copy of same is already supplied to Ld. Counsel for applicant/accused, electronically.

Heard. Record perused.

This order shall dispose off second application for **grant of regular bail u/s 437 of Cr.P.C.**, moved on behalf of **applicant/ accused Mohd. Sarif.**

It is averred on behalf of the applicant has been falsely implicated in the present case and no recovery is left to be effected from the applicant/accused. It is further averred that applicant is undergoing judicial custody since period of almost one year. It is further averred that there exists no possibility of applicant fleeing from process of law. It is with these averments, prayer has been made to admit the applicant on regular bail.

Ld. APP for State has been contended that the present application is not maintainable as it is the second bail application moved on behalf of the applicant/accused, without establishing any changed circumstance after the dismissal of the earlier application. It is also contended that the applicant is a habitual offender and if he is admitted on bail, there exists a strong likelihood that he will indulge himself in the offences of similar nature. It is with these averments, the prosecution has sought dismissal of the present application.

At the very outset, it is pertinent to mention here that the present

application is the **second bail application** moved on behalf of the applicant, seeking his enlargement on bail. It may be added here that vide orders dated 13.12.2019, the earlier bail application of the accused/applicant, was dismissed by this court. It has been averred on behalf of applicant that since the accused is undergoing judicial custody since long, therefore, it tantamount to a changed circumstance, entitling the applicant for grant of bail. However, in this regard it is pertinent to mention here that even though there is no bar in entertaining successive bail applications, by consideration before the same court. There also lies not time-limit, set for moving the court for bail, after the first or previous bail application, is rejected. But, it should be only when some new facts and circumstances have been developed, after rejection of previous bail application, then only the successive bail application should be considered on merits. **In Parvinder Singh vs. State of Punjab 2003 12 SCC 528**, the Hon'ble apex court held that though an accused has right to move successive bail applications for grant of bail, but the court entertaining such subsequent application, has a duty to consider the reasons and grounds on which earlier bail applications were rejected. In such cases, the court has a duty to record what are the fresh grounds which persuade it to take a view, different from one taken in earlier application. Similarly, in **State of Madhya Pradesh versus Kajad AIR 2001 SC 3517**, it was held that it is true that successive bail application are permissible under the changed circumstances, but without the change in circumstances, the second bail application would be deemed, seeking review of earlier judgment, which is not permissible under the criminal law.

Now, coming to the contentions advanced on behalf of the accused/applicant, qua changed circumstances justifying maintainability of present application. As per the version of the Ld. Counsel for applicant, since the accused is undergoing J/C since long, hence in view of this changed circumstance, the present bail application can well be entertained by this court. In this regard, it is pertinent to add that the authorities cited above clearly suggests that the successive bail applications are maintainable before the same court only when, circumstance which led to the dismissal of earlier application, is shown to have been changed. Mere, branding a circumstance or glossing it with a term 'changed circumstance', does

not, fall under the purview of circumstance, which leads to maintainability of successive bail application unless the same has direct bearing on the grounds upon which the decision on earlier application was made. If, without establishing the said changed circumstance, the court ventures itself into entertaining the successive bail applications, it virtually tantamount to review of its own order, which certainly is not contemplated under the scheme of Cr.P.C. As far as the assertions of Ld. Counsel for applicant are concerned, pertinently, the perusal of order dated 13.12.2019 is suggestive of the fact that the first bail application as moved on behalf of the applicant/accused Mohd. Sarif was dismissed by this court primarily on two counts which are, first, the previous bad antecedents of the applicant, justifying the apprehensions of the prosecution regarding the possibility of commission of offences of like nature by the accused/applicant and secondly, on the count that there existed a likelihood that if admitted on bail, the applicant will dissuade the prosecution witnesses. Pertinently, on establishing the fact by prosecution that the applicant has dented antecedents, the earlier bail application of accused/applicant was dismissed. The fact that, the applicant has previous dented criminal antecedents, remains undisputed and as such nothing cogent has been placed on record on behalf of the accused/applicant vanishing the apprehension of the prosecution that if admitted on bail, the accused will not indulge himself in offences of similar nature or will not dissuade the material prosecution witnesses, I am of the view that the present application as moved on behalf of applicant lacks any maintainability. Besides, the offences involved in the present case are serious in nature. More specifically offence u/s 394 Cr.P.C. entails punishment extending upto life imprisonment and the severity of punishment cannot be ignored.

In the light of my discussion made above, and also placing on reliance on the authorities cited above, since the earlier bail application of the applicant was dismissed on the ground of existence of likelihood of commission of offences of similar nature by the applicant, in case of his release and also upon appreciating possibility of his dissuading the prosecution witnesses, therefore merely on account of prolonged judicial custody of accused, the prayer of the applicant cannot be accepted. In these circumstances, the application in hand deserves dismissal and as such the present application is hereby dismissed.

The application is accordingly disposed of.

Scanned copy of this order be sent to the Ld. Counsel for applicant through email. One copy be also sent to IO/SHO concerned through email.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.

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(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
03.09.2020

Cr. Case 5028/20
STATE Vs. Yogesh
FIR No. 143/20
PS I.P. Estate

ऋषभ कपूर
RISHABH KAPOOR
महानगर दण्डाधिकारी-
Metropolitan Magistrate-
केन्द्रीय जिला कमरा नं. 15C
Central District, Room No. 15C
तीस हजारी न्यायालय, दिल्ली
Tis Hazari Courts, Delhi

03.09.2020

(Matter has been physically heard)

Case taken up in view of circular no. 23456-23616 DJ(HQ)/ Covid-19
Lockdown/Physical Courts Roster/2020 dt. 30.08.2020 directions issued by Ld.
District & Sessions Judge (HQ).

Present: Ld. APP for the State.

IO/SI Mohit Asiwali in person.

Both accused are stated to be in JC.

IO has filed the charge-sheet pertaining to case FIR No.143/20 u/s
356/379/411/34 IPC, PS – I.P. Estate. It be checked & registered.

Heard. Record perused.

On the basis of material available on record, since there exists a
prima facie case against the accused persons for offence u/s 356/379/411/34 IPC,
hence cognizance is taken.

IO is directed to supply copies of charge-sheet to both accused
persons through concerned Jail Superintendent.

List for scrutiny of documents and consideration on charge on
18.09.2020.

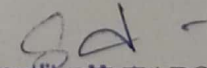
Accused persons be joined for hearing through VC on date fixed.

Concerned Jail Superintendent to do needful.

Scanned copy of this order be sent to concerned Jail Superintendent,
through email.

One copy given dasti to IO.




~~RISHABH KAPOOR~~ (Central)
MM-03(Central), Tis Hazari, Delhi
03.09.2020