

B.A. No. 1570/2020  
State Vs. Aman Kumar Shavlu Sharma  
FIR No. 11/2020  
PS Railway Main Delhi

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Sh. Pawan Kumar, Ld. Addl PP for the State.  
Ms. Abeda Shaikh, Ld. Counsel for applicant  
through VC.

Certain clarifications required.

Put up for clarification and order on 22.10.2020  
through VC.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

B.A. No. 2893  
State Vs. Mohd. Manzur Alam  
FIR No. 11/2020  
PS ODRS

21.10.2020

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Sh. Pawan Kumar, Ld. Addl PP for the State.  
Sh. Sulaiman Khan, Ld. Counsel for applicant  
through VC.

Certain clarifications required.

Put up for clarification and order on 22.10.2020  
through VC.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**



**BAIL APPLICATION NO.: 798/2020**

**State v. Ritesh Kumar  
FIR No.: 103/2019  
PS: HN Railway Station**

**20.10.2020**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
None for accused.

**Put up for further arguments and orders on 22.10.2020.**

**(Naveen Kumar Kashyap)  
ASJ-04/Central/20.10.2020**



**BAIL APPLICATION NO.: 1359/2020**

**State v. Bharat @ mirchi**  
**FIR No.: 139/2014**  
**PS: Hauz Qazi**  
**U/s:**

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Ld. Counsel for accused.

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

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

**AT 4 pm**

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

TCR not received from the court of Sh. Gajender Singh Nagar, Ld. ACMM, Central. As such, issue fresh notice to Ahlmad of the court of Sh. Gajender Singh Nagar , Ld. ACMM to produce TCR.

**Put up for orders/clarifications and such TCR on 28.10.2020.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

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

BAIL APPLICATION NO: 1345/2020

State v. Nitesh Phore & Ors.  
FIR No. : 30/2020  
PS: Rajinder Nagar  
U/S: 452,307,34 IPC & 25 Arms Act

21.10.2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State.  
Sh. Lalit Yadav, Ld. Counsel for accused/applicant.

Further arguments heard.

It is stated on behalf of the applicant that two of the cases in which involvement of the present accused is shown are already over. One is compromised and one is disposed of.

But the fact remains that the criteria given by Hon'ble High Court dated 18.05.2020 relates to involvement and not to conviction. Even otherwise, having regard to the fact of the present case, this court is not inclined to grant interim bail. **With these observations, present interim bail application is dismissed.**

**Counsel for accused/applicant is at liberty to collect the order through electronic mode. Copy of this order be also sent to IO/SHO concerned as well as Jail Superintendent concerned.**

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
21.10.2020

**BAIL APPLICATION NO.: 1522/2020**

**State v. Ramu  
FIR No.: 217/2020  
PS: Rajinder Nagar  
U/s:382,411, 34 IPC**

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. V.V. Arya, Ld. Counsel for the applicant.

Part arguments heard.

It is argued that two of the co-accused are already granted bail.

IO to file further reply regarding the same with copy of such bail, if available. Counsel for accused is also at liberty to file copy of the same.

**Put up for arguments and orders on 02.11.2020 through VC.**

In the meanwhile, no coercive steps be taken by the police in these circumstances only, without commenting on merit of the case.

**(Naveen Kumar Kashyap)  
ASJ-04/Central/21.10.2020**

Bail Application No. 2106/2020  
State Vs. Sakir  
FIR No. 84/2019  
PS: IP Estate

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Sh. Pawan Kumar, Ld. Addl PP for the State.  
Sh. M. Prabhakar, Ld. Counsel for applicant  
through physical court hearing.

Further part arguments heard.

put up for further arguments on **02.11.2020**  
through VC.

Trial court Record be returned in the meanwhile  
and be summoned only for NDOH.

Interim protection, if any, be continued in terms of  
previous order.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

Bail Application No. 1452/2020  
State Vs. Karan  
FIR No. 301/2020  
PS: Karol Bagh

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Sh. Pawan Kumar, Ld. Addl PP for the State.  
Sh. Pujay Kumar Singh, Ld. Counsel for the applicant/ accused in person.  
Sh. S.C. Sharma, Ld. Counsel for the complainant / victim.  
Victim in person along with her mother and complainant.

Part arguments heard. It is stated by Ld. Counsel for accused that the statement given U/S 164 CrPC is depicting the correct fact and same is contrary to the tutored FIR registered in this case.

On the other hand, it is stated by the victim and her mother that Ms. Nisha, sister of complainant, was kidnapped and they were under threat and that is why they gave the statement U/S 164 CrPC under threat. Further, today also father of the accused threatened the complainant and her mother.

Further, it is argued by Ld. Counsel for the accused that no complaint whatsoever is filed regarding such alleged threat so far despite repeated opportunities available to the complainant side.

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Before proceeding further let charge-sheet be summoned for physical hearing for further arguments for **27.10.2020. IO be also summoned for NDOH.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

Bail Application No. 1360/2020  
State Vs. Mohd. Umar  
FIR No. 210/2020  
PS: Sarai Rohilla

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

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

Part arguments hearing.

Put up for further arguments in the present bail  
application on **28.10.2020** through VC.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**



Bail Application No. 1534/2020  
State Vs. Gurdev Singh @ Vicky  
FIR No. 244/2020  
PS: Kamla Market

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Sh. Pawan Kumar, Ld. Addl PP for the State.  
Sh. Ashwani Jha, Ld. Counsel for applicant  
through physical court hearing.

This is an application for interim bail U/S 307 IPC. Reply is also filed by the IO. Later on, such FIR was converted into Section 302 IPC as a person has expired.

Part arguments heard.

It is stated that there is some CCTV footage also relating and regarding to the incident in question which the IO is not receiving despite efforts made and same shows the innocence of the accused. Same be placed on record by the Ld. Counsel for the accused, if desired, during the course of the day.

Put up for further arguments and appropriate order on the date of physical court hearing i.e. on **27.10.2020 at 12:00 noon. IO is directed to appear in person with case file.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

**BAIL APPLICATION NO.: 1542/2020**

**State v. Abhay arora**  
**FIR No.: 30/2020**  
**PS: Rajinder Nagar**  
**U/s:307,387,452,120B, 34 IPC**

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Jaiveer Singh Chauhan, Ld. Counsel for the applicant.

Arguments in detail heard on the application for regular bail inter alia it is argued hat ultimately chargesheet is filed and section 307 IPC is not added against any of the accused. It is further argued that role of the accused Abhay Arora is that of only conspirator. It is further argued that even section 387 IPC is not attracted and section 385 at best is alleged in the present chargesheet.

Issue notice to IO to appear through VC to explain in this regard tomorrow at 12 noon.

**Put up for further arguments and orders on 22.10.2020.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

**BAIL APPLICATION NO.: 1572/2020**

**State v. Sumit Kumar  
FIR No.: 188/2020  
PS: Rajinder Nagar  
U/s:420,468,471,34 IPC**

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. J.S. Kohli, Ld. Counsel for the applicant.  
Counsel for complainant is also present through VC.

Arguments heard.

**Put up for orders tomorrow on 22.10.2020.**

**(Naveen Kumar Kashyap)  
ASJ-04/Central/21.10.2020**



**BAIL APPLICATION NO.:1575/2020**

**State v. Jamshed  
FIR No.: 24604/2020  
PS: Sarai Rohilla  
U/s:379,411, 34 IPC**

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Zia Afroz, Ld. Counsel for the applicant.

A reply filed by IO. Copy of the same be supplied to counsel for accused.

Part arguments in detail heard.

**Put up for further reply by IO as whose instance/disclosure the case property/truck in question was got recovered from UP, on 03.11.2020.**

**(Naveen Kumar Kashyap)  
ASJ-04/Central/21.10.2020**

Bail Application No. 1573/2020  
State Vs. Mohd. Sabir  
FIR No. 175/2020  
PS: Hauz Qazi

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Sh. Pawan Kumar, Ld. Addl PP for the State.  
None for applicant/ accused.

Reply to the present bail application is filed .

Put up for arguments and appropriate order **on**

**02.11.2020.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**



Bail Application No. 1574/2020  
State Vs. Gautam  
FIR No. 32/2020  
PS: Kamla Market

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Sh. Pawan Kumar, Ld. Addl PP for the State.  
SI Giri Raj through VC.  
Sh. Wasim Khan, Ld. Counsel for applicant/  
accused through VC.

Reply to the bail application is filed.

Today is the physical court hearing day. It is already 12.30 p.m. as such working hours are over. Further after lunch regular matter and the matters which are time bound by the directions of Hon'ble Supreme Court are pending for disposal.

As such, put up for arguments on the present bail application **on 02.11.2020.**

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

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

**Anitcipatory Bail Application: 1453/2020**

State V. Karan @ Ritik  
FIR No. 333/2020  
PS.: Sarai Rohilla  
U/s: 356,379 IPC

**21.10.2020**

**This court is holding physically today as per directions.**

**This court is also working as Link Bail roster.**

**Present: Mr. Pawan Kumar, Learned Addl. PP for State.  
Sh. Rishi Saini, Ld. Counsel for applicant through  
VC.  
IO is present in person with case file.**

Vide this order, the bail application under section 438 Cr.P.C. on behalf of accused filed through counsel is disposed of.

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

In the present case, it is argued on behalf of accused that police officer are regularly visiting the house of the applicant. That he joined investigation even as per the directions of this court. That police is not disclosing the reason why he should report to the police station earlier. As such, he apprehend that he may be arrested in a false case. That he is ready to join investigation as and when so directed. As such, it is prayed that SHO/IO concerned be directed to release the applicant on bail in the event of his arrest.

On the other hand, it is argued by Ld. Addl PP for the state that there is a CCTV footage of the present accused committing the theft in question and then running away on a motorcycle. As such, his custodial interrogation is required. It is further stated that such



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motorcycle which he was riding belongs to mama/uncle of the accused and neither the applicant nor such uncle is cooperating in the investigation despite directions by the court. As such, present bail application is strongly opposed.

I have heard both the sides and gone through the record including the CCTV footage produced by the IO. Having regard to the incriminating evidence on record, custodial investigation of the present accused is required and it cannot be said that allegations against the accused are baseless. Rest is the matter of investigation. As such, this court is not inclined to grant the relief as sought in the present application. Hence, the same is dismissed.

**With these observations present bail application is disposed of as dismissed. Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Copy of this order be sent to IO/SHOI concerned through electronic mode.**

**(Naveen Kumar Kashyap)**  
**Additional Sessions Judge-04**  
**Central/THC/Delhi**  
**21.10.2020**



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

**BAIL APPLICATION NO.: 1520/2020**

**State v. Nafe Singh**  
**FIR No.: 4/2019**  
**PS: Delhi Cantt Railway Station**  
**U/s: 182,189,109,114 IPC**

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Jitender Ld. Counsel for applicant through VC.  
IO present in person with case file.

Further arguments in detail heard.

Vide this order, application u/s 438 Cr.P.C dated 10.10.2020 filed by the present applicant Nafe Singh is disposed of.

In nutshell, it is stated in such application that as FIR was got registered by complainant bearing no. 1225/2018 u/s 144,147 Railway Act levelling certain allegations against Insp. Pradeep Sharma, RPF. Later on 24.12.2018, complainant Shalu withdrew the same. Thereafter, on 19.01.2019, statement of such complainant Shalu was recorded and she mentioned name of present applicant as the person with whom such complainant Shalu conspired and levelled false allegations against Insp. Pradeep. As such, section 182,109,189,114 IPC were added as per the order of Ld. MM concerned. It is further stated that applicant is serving a police personnel. It is stated that he is innocent and wrongly roped in the present case. As such, it is prayed that he be granted anticipatory bail.

In reply filed by SI Umesh Kumar, it is stated that no evidence could be collected against the applicant during investigation. As such,

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such applicant is kept in column 12 without arrest as suspect only. That such applicant HC Nafe Singh RPF is working as Lok Sewak, therefore, permission is sought u/s 197 Cr.P.C. from the concerned authority, which is pending.

The manner in which the investigation is carried out in the present case raises certain doubt and unprofessionalism of the concerned IO. It appears that police official Pradeep and present applicant both were the government servants at the relevant time and now when they are cornered, the matter is being diverted. But nothing more is commented upon as it is for the Ilaka MM to look into the same as per his jurisdiction as per law.

In any case, as it is stated by the IO that he is kept in column 12 without arrest as suspect only, therefore, there is no reasonable apprehension of his arrest. As such, there is no occasion to grant relief u/s 438 Cr.P.C. **With these observations, present application is dismissed.**

**Counsel for applicant can obtain copy of this order through electronic mode. Copy of this order be sent to IO/SHO concerned through electronic mode.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

**NOT TO BE UPLOADED ON THE WEBSITE**

**BAIL APPLICATION NO.: 1451/2020**

**State v. Ashok  
FIR No.: 165/2020  
PS: Rajinder Nagar  
U/s:376,419,420,493,495 IPC**

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Vinay Kumar Sharma, Ld. Counsel for applicant through vC.

Part arguments in detail heard.

Certain documents /pen drive also placed on record by complainant side. Today is the physical hearing day and time for hearing before lunch is over. After lunch, regular matter of the court are pending including time bound matters as directed by Hon'ble Supreme Court. **As such, put up the matter for hearing through VC on 23.10.2020.**

**A copy of document placed on record by the complainant today be supplied by him to the accused through court by tomorrow.**

**Counsel for accused is at liberty to collect the same through court.**

**(Naveen Kumar Kashyap)  
ASJ-04/Central/21.10.2020**



**BAIL APPLICATION NO.: 1510/2020**

**State v. Mohd. Asif**

**FIR No.: 294/2020**

**PS: Sarai Rohilla**

**U/s:302 IPC & 25, 27, 54, 59 Arms Act**

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Hari Kishan, Ld. Counsel for applicant.

Today is the physical hearing day.

It is already 1 pm. As such, no time is left.

Copy of reply supplied to counsel for accused. It is requested that matter be put up on physical hearing day but because of regular matters including time bound matters and court concerned bail matters and bail matters u/s 376 IPC, it is not possible to accommodate the same.

**As such, put up on 26.10.2020 through VC.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**



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

**State Vs Mohsin Khan**  
**FIR No. 210/2020**  
**P. S. Sarai Rohilla**  
**U/s: 186,353,307,147,148,149,379,34 IPC**  
**Section 27 Arms Act**

**21.10.2020**

Present: Sh. Pawan Kumar Ld. Addl. PP for the State.  
Sh. Juned Alam, Ld. Counsel for accused in  
person.

Vide this order, bail application u/s 439 Cr.PC dated 07.10.2020 filed by applicant through counsel is disposed of.

It is stated in the application that he is in JC since 11.06.2020; that he has been falsely implicated in the present case; that co accused Shahrukh and another accused Ashquin are already granted bail by the Ld Sessions court vide order dated 16.09.2020 and 23.09.2020; that role assigned to the present accused is similar to the accused Ashquin as such on parity also he be granted bail. It is further argued that there is no previous conviction record of the present accused and he is the only bread earner of the family; that charge sheet is already filed; that he is permanent resident of Delhi and the trial is likely to take time. As such it is prayed that he be granted regular bail



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On the other hand, in reply filed by the IO and as argued by Id. Addl. PP for the State it is stated that present FIR was registered on the complaint of SI Pankaj Thakran; that on 10.06.2020 at about 8:30 p.m. at Police Post Inder Lok a person namely Kale came inside the police post regarding a complaint of beating by Mohsin and his brother and also looting of cash from his shop; that such Mohsin and others were called but they started quarreling inside the police post but they were aggressive still and using filthy language. In the meanwhile relative, friends of Mohsin including the present accused arrived and gathered outside the police post and attacked the police officials with lathi, stones, fists and legs while such police officials were on official duty. Further, mobile phone of SI Pankaj was also stolen by them and many police officials sustained bodily injury. It is further stated that one of the most aggressive person was Mohsin, who was instigating other persons and he was aggressive till end. Further, another co-accused Naved @ Pilla was carrying fire arm but most of them run away and could not be caught but such Naved @ Pilla was caught at the entry gate of police post and such Naved @Pilla fired gun shot at the police party and some how police officials saved themselves. As such, present bail application is strongly opposed.

I have heard both the sides.

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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

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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

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intentionally not identical, but vitally and drastically dissimilar. (**Sundeeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745** ).

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

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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 co-accused Shahrukh and Ashquin are already granted bail. Further, another co-accused Sadquin is granted bail today only by this court only. But as per the investigation it is clear that role of present accused is quite different and serious and specific in the present offence which is against the police officials on duty. Along with one Naved @ Pilla present accused / applicant Mohsin are the main aggressive in committing the various offence in present case and further instigating the other persons, relatives/ friends. Therefore, having regard to the role played by the present accused, nature of incriminating evidence against him, and the seriousness of the offence, this court is not inclined to grant regular bail to this accused at present.

With these observations present application is

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dismissed.

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

**(NAVEEN KUMAR KASHYAP)  
ASJ-04(Central/Delhi/21/10/2020)**



: 1 :

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

**ANTICIPATORY BAIL APPLICATION**

**Bail Application No.: 718/2020**

**State v. Himanshu Chahal**  
**FIR No.: 193/2020**  
**PS: Prashad Nagar**  
**U/S: 307,34 IPC**

**21.10.2020**

Present: Mr. Pawan Kumar, Learned Addl. PP for State  
IO ACP Krishan Lal in person with case file.  
Sh. Subham Asri, Learned counsel for applicant in  
person.  
Sh. Mohit Chadha, Ld. Counsel for complainant  
with family member of the complainant in person.

Further arguments from all sides heard today.

1. Vide this order, present bail application u/s 438 Cr.PC filed on 25.07.2020 for anticipatory bail by accused / applicant Himanshu Chahal is disposed of.
2. In nutshell, it is stated by the accused side that present FIR is registered as per the directions of Ld. MM u/s 156(3) Cr.P.C. That complainant is the wife of the accused Dushyant who is accused in a murder case of his brother of the present accused/applicant Himanshu Chahal under FIR no. 193/2019. That before such application to the learned MM, no efforts were made to get registered the FIR. That present FIR is registered to pressurize the present accused/applicant Himanshu Chahal who is the sole eye witness in that FIR no. 193/2019. It is further argued that there is a sufficient scientific evidence including CCTV footage collected during investigation of FIR no. 193/2019 against the complainant family members, who are already in JC in that matter.

Further, it is argued that there is no explanation given by the complainant that how the brother of the accused/applicant of present FIR died. As such, it is prayed that he be granted anticipatory bail in the disposal of the present case.

3. On the other hand, it is argued on behalf of the state that investigation is still pending in the present case. It is further stated that as per the investigation so far, it is Vinay , Akash to whom the gun in question belong and they fired upon the brother of the present accused regarding which a chargesheet is already filed. It is further stated that as per expert opinion no conclusive opinion could be given regarding alleged gun shot injury to the Dushyant.

4. On the other hand, it is argued by learned counsel for complainant that present applicant as well as his deceased brother as well as their father as a previous criminal record. That father of the present applicant was employed in Delhi Police and using his clout earlier he managed that no FIR is registered against the present accused and now they are even trying to manage investigation of the present FIR which is ordered by learned MM after due consideration. It is further stated that it is matter of record that there is conflicting reply to the present bail application. Earlier SI Bal Mukund Rai clearly stated that Dushyant, Akash and Deepak were not the perpetrators of the crime in question during investigation of the present FIR only. It is further stated that CCTV footage shown by the present IO is not giving the complete picture and in any case not relating to the actual gun shot. It is further stated that there is no explanation to the injury by gun shot caused to Dushyant. It is further argued that it is the present applicant and the deceased brother who came to the place of complainant of present case and not vice versa. Further, it is argued that as such complainant is the perpetrator of the crime which is serious in nature.

5. I have heard all the sides and gone through the record.

6. At this stage it may be noted that in the case of **Bhadresh Bipinbhai Sheth Vs. State Of Gujarat & Another**( Criminal Appeal Nos. 1134-1135 Of 2015, Arising Out Of Special Leave Petition (Crl.)



Nos. 6028-6029 Of 2014), Hon'ble SC discussed and reviews the law relating to section 438 Cr.P.C.

7. A judgment which needs to be pointed out is a Constitution Bench Judgment of this Court in the case Gurbaksh Singh Sibbia and Other vs. State of Punjab( 1980 AIR 1632 ; 1980 SCR(3) 383), The Constitution Bench in this case emphasized that provision of anticipatory bail enshrined in Section 438 of the Code is conceptualised under Article 21 of the Constitution which relates to personal liberty. Therefore, such a provision calls for liberal interpretation of Section 438 of the Code in light of Article 21 of the Constitution. The Code explains that an anticipatory bail is a pre- arrest legal process which directs that if the person in whose favour it is issued is thereafter arrested on the accusation in respect of which the direction is issued, he shall be released on bail. The distinction between an ordinary order of bail and an order of anticipatory bail is that whereas the former is granted after arrest and therefore means release from the custody of the police, the latter is granted in anticipation of arrest and is therefore, effective at the very moment of arrest. A direction under Section 438 is therefore intended to confer conditional immunity from the 'touch' or confinement contemplated by Section 46 of the Code. The essence of this provision is brought out in the following manner:

“26. We find a great deal of substance in Mr Tarkunde's submission that since denial of bail amounts to deprivation of personal liberty, the court should lean against the imposition of unnecessary restrictions on the scope of Section 438, especially when no such restrictions have been imposed by the legislature in the terms of that section. Section 438 is a procedural provision which is concerned with the personal liberty of the individual, who is entitled to the benefit of the presumption of innocence since he is not, on the date of his application for anticipatory bail, convicted of the offence in respect of which he seeks bail. An over-generous infusion of constraints and conditions which are not to be found in Section 438 can make its provisions constitutionally

vulnerable since the right to personal freedom cannot be made to depend on compliance with unreasonable restrictions. The beneficent provision contained in Section 438 must be saved, not jettisoned. No doubt can linger after the decision in *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248, that in order to meet the challenge of Article 21 of the Constitution, the procedure established by law for depriving a person of his liberty must be fair, just and reasonable. Section 438, in the form in which it is conceived by the legislature, is open to no exception on the ground that it prescribes a procedure which is unjust or unfair. We ought, at all costs, to avoid throwing it open to a Constitutional challenge by reading words in it which are not to be found therein.”

8. Though the Court observed that the principles which govern the grant of ordinary bail may not furnish an exact parallel to the right to anticipatory bail, still such principles have to be kept in mind, namely, the object of bail which is to secure the attendance of the accused at the trial, and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise, bail is not to be withheld as a punishment. The Court has also to consider whether there is any possibility of the accused tampering with evidence or influencing witnesses etc. Once these tests are satisfied, bail should be granted to an undertrial which is also important as viewed from another angle, namely, an accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. Thus, grant or non-grant of bail depends upon a variety of circumstances and the cumulative effect thereof enters into judicial verdict. The Court stresses that any single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail. After clarifying this position, the Court discussed the inferences of anticipatory bail in the following manner:

“31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant’s presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and “the larger interests of the public or the State” are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in *The State v. Captain Jagjit Singh*, AIR 1962 SC 253 : (1962) 3 SCR 622 : (1962) 1 Cri LJ 216, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the



presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.”

9. It is pertinent to note that while interpreting the expression “may, if it thinks fit” occurring in Section 438(1) of the Code, the Court pointed out that it gives discretion to the Court to exercise the power in a particular case or not, and once such a discretion is there merely because the accused is charged with a serious offence may not by itself be the reason to refuse the grant of anticipatory bail if the circumstances are otherwise justified. At the same time, it is also the obligation of the applicant to make out a case for grant of anticipatory bail. But that would not mean that he has to make out a “special case”. The Court also remarked that a wise exercise of judicial power inevitably takes care of the evil consequences which are likely to flow out of its intemperate use.

10. Another case to which can be referred to is the judgment of a Division Bench of this Court in the case of Siddharam Satlingappa Mhetre v. State of Maharashtra and Others( SLP(CRL.) 7615/2009 DATED 02-12-2021).This case lays down an exhaustive commentary of Section 438 of the Code covering, in an erudite fashion, almost all the aspects and in the process relies upon the aforesaid Constitution Bench judgment in Gurbaksh Singh's case. In the very first para, the Court highlighted the conflicting interests which are to be balanced while taking a decision as to whether bail is to be granted or not, as is clear from the following observations:

“1. ....This appeal involves issues of great public importance pertaining to the importance of individual's personal liberty and the society's interest. Society has a vital interest in grant or refusal of bail because every criminal offence is the offence against the State. The order granting or refusing bail must reflect perfect balance between the

conflicting interests, namely, sanctity of individual liberty and the interest of the society. The law of bails dovetails two conflicting interests, namely, on the one hand, the requirements of shielding society from the hazards of those committing crimes and potentiality of repeating the same crime while on bail and on the other hand, absolute adherence to the fundamental principle of criminal jurisprudence regarding presumption of innocence of an accused until he is found guilty and the sanctity of individual liberty.....”

11. The principles which can be culled out can be stated as under:

(i) The complaint filed against the accused needs to be thoroughly examined, including the aspect whether the complainant has filed a false or frivolous complaint on earlier occasion. If the connivance between the complainant and the investigating officer is established then action be taken against the investigating officer in accordance with law.

(ii) The gravity of charge and the exact role of the accused must be properly comprehended. Before arrest, the arresting officer must record the valid reasons which have led to the arrest of the accused in the case diary. In exceptional cases, the reasons could be recorded immediately after the arrest, so that while dealing with the bail application, the remarks and observations of the arresting officer can also be properly evaluated by the court.

(iii) It is imperative for the courts to carefully and with meticulous precision evaluate the facts of the case. The discretion to grant bail must be exercised on the basis of the available material and the facts of the particular case. In cases where the court is of the considered view that the accused has joined the investigation and he is fully cooperating with the investigating agency and is not likely to abscond, in that event, custodial interrogation should be avoided. A great ignominy, humiliation and disgrace is attached to arrest. Arrest leads to many serious consequences

not only for the accused but for the entire family and at times for the entire community. Most people do not make any distinction between arrest at a pre-conviction stage or post-conviction stage.

(iv) There is no justification for reading into Section 438 CrPC the limitations mentioned in Section 437 CrPC. The plenitude of Section 438 must be given its full play. There is no requirement that the accused must make out a "special case" for the exercise of the power to grant anticipatory bail. This virtually, reduces the salutary power conferred by Section 438 CrPC to a dead letter. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints and conditions on his freedom, by the acceptance of conditions which the court may deem fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

(v) The proper course of action on an application for anticipatory bail ought to be that after evaluating the averments and accusations available on the record if the court is inclined to grant anticipatory bail then an interim bail be granted and notice be issued to the Public Prosecutor. After hearing the Public Prosecutor the court may either reject the anticipatory bail application or confirm the initial order of granting bail. The court would certainly be entitled to impose conditions for the grant of anticipatory bail. The Public Prosecutor or the complainant would be at liberty to move the same court for cancellation or modifying the conditions of anticipatory bail at any time if liberty granted by the court is misused. The anticipatory bail granted by the court should ordinarily be continued till the trial of the case.

(vi) It is a settled legal position that the court which grants the bail also has the power to cancel it. The discretion of grant or cancellation of bail can be exercised either at the instance of the accused, the Public Prosecutor or the complainant, on finding new material or circumstances at any point of time.



(vii) In pursuance of the order of the Court of Session or the High Court, once the accused is released on anticipatory bail by the trial court, then it would be unreasonable to compel the accused to surrender before the trial court and again apply for regular bail.

(viii) Discretion vested in the court in all matters should be exercised with care and circumspection depending upon the facts and circumstances justifying its exercise. Similarly, the discretion vested with the court under Section 438 CrPC should also be exercised with caution and prudence. It is unnecessary to travel beyond it and subject the wide power and discretion conferred by the legislature to a rigorous code of self-imposed limitations.

(ix) No inflexible guidelines or straitjacket formula can be provided for grant or refusal of anticipatory bail because all circumstances and situations of future cannot be clearly visualised for the grant or refusal of anticipatory bail. In consonance with legislative intention, the grant or refusal of anticipatory bail should necessarily depend on the facts and circumstances of each case.

(x) The following factors and parameters that need to be taken into consideration while dealing with anticipatory bail:

(a) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

(b) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;

(c) The possibility of the applicant to flee from justice;

(d) The possibility of the accused's likelihood to repeat similar or other offences;

(e) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;

(f) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;

(g) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution, because overimplication in the cases is a matter of common knowledge and concern;

(h) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(i) The Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(j) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.

12. Now in this background of law we come back to present case. It may be noted as already noted by my learned Predecessor Bail Roster Judge vide detailed order dated 13.08.2020 that all is not well in the investigation of the present FIR. Two different IOs giving two different versions. Further, it appears that no sincere effort are made regarding the procurement of the gun in question and the ownership thereof. Further,

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although it is stated that there is some financial dispute between the two sides, but it is not explained why it is the present accused/applicant alongwith his deceased brother who came to the complainant side family place and not vice-versa. Further, from the CCTV footage shown by the IO which appears to be just before the death of the brother of the present accused, it is doubtful that the complainant side of the present case is perpetrator of the offence in question. In fact, it appears that the deceased was aggressive himself. Further, under these circumstances, having regard to the fact that investigation is still pending and the seriousness of charges against the present accused Himanshu Chahal, this court is not inclined to grant the relief sought in the present case. **With these observations, present application is dismissed.**

**13. Copy of this order be sent to IO/SHO concerned through electronic mode. Further, a copy of this order be sent to Joint Commissioner for his information through electronic mode. Counsel for applicant may obtain copy of this order through electronic mode.**

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
21.10.2020

: 1 :

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

**BAIL APPLICATION NO.: 1408/2020**

**State v. Lalit @ Aniket**

**FIR No. : 12296/2020**

**P. S. : New Rajinder Nagar**

**U/s: 379, 411,34 IPC**

**21.10.2020**

**This court is holding physically today as per directions.**

**This court is also working as Link Bail roster.**

Present: Mr. Pawan Kumar, Learned Addl. PP for State.  
Sh. Pramod Kummar, Ld. Counsel for accused through in person.

Vide this order, regular bail application u/s 439 Cr.PC dated 30.09.2020 filed by applicant through counsel is disposed of.

It is stated in the application that he is in JC since 09.08.2020. That he is young person and is falsely implicated in the present case. That nothing is recovered from him or at his instance except the planted case property. Main accused is already granted bail by court of Sessions. That he is permanent resident of Delhi. Investigation is already complete. As such, he is no more required for investigation purpose. As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by IO as also argued by Ld. Addl. PP for State that present accused alongwith co-accused Ritik were arrested alongwith a stolen scooty. It was found out that such scooty was stolen by Ritik /Co-accused and they were going to sell the same, but were so caught by the police. That he is involved in other cases also. His family do not have any control over him. As 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



ons 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, main accused Ritik is already granted by learned Bail Roster Sessions Court on 25.08.2020. It is a matter of record that accused is in JC since 09.08.2020. In fact, the period for seeking police remand is already over. As such, no purpose would be served by keeping such accused in JC. 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, present accused is granted bail subject to furnishing of personal bond in the sum of **Rs. 10,000/- with two sound sureties of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

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

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

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

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

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



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thereof.

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

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

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

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

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

(NAVEEN KUMAR KASHYAP)  
ASJ-04(Central/Delhi)  
21.10.2020

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

**BAIL APPLICATION NO.: 1558/2020**

**State v. Rohit @ Bachan**

**FIR No. : 20168/2020**

**P. S. : I.P. Estate**

**U/s: 379, 411 IPC**

**21.10.2020**

**This court is holding physically today as per directions.**

**This court is also working as Link Bail roster.**

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

None for accused.

Arguments already heard.

Today, case is fixed for orders.

Vide this order, regular bail application u/s 439 Cr.PC dated 16.10.2020 filed by applicant through counsel is disposed of.

It is stated in the application that he is in JC since 14.09.2019. That he is young person and is falsely implicated in the present case. That chargesheet is already filed. As such, he is no more required for investigation purpose. He is permanent resident of Delhi. As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by IO as also argued by Ld. Addl. PP for State that present FIR relates to theft of a motorcycle and the same was recovered from the possession of the accused persons while investigation in another case and as such, they were formally arrested in this case on 12.07.2019. That chargesheet is already filed. That present accused is a habitual criminal. That there are ten other criminal case pending against him. That he may change his residential address.

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 12.07.2019. In fact, the period for seeking police remand is already over. In fact chargesheet is already filed and rest is the matter of trial. As such, no purpose would be served by keeping such accused in JC. 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, present accused is granted bail subject to furnishing of personal bond in the sum of **Rs. 10,000/- with two sound sureties of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

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

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

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

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

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

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

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

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

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

(NAVEEN KUMAR KASHYAP)  
ASJ-04(Central/Delhi)  
21.10.2020

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

**Bail Application: 1541/2020**

State Vs Sunny Sethi  
FIR No. 272/2020  
PS.: I.P. Estate  
U/s: 420,411 IPC

21.10.2020

**Present: Mr. Pawan Kumar, Learned Addl. PP for State.  
Sh. Manish Arora, Ld. Counsel for applicant.**

Vide this order, the bail application under section 439 Cr.P.C. on behalf of accused dated 14.10.2020 filed through counsel is disposed of.

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

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



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

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after convictions, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earlier times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial ,but in such case 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the constitution that any persons should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty under Article 21 of the Constitution upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439

CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

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

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

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

**Bafna Vs. State of Maharashtra, AIR 2014 SC 1745 ).**

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for grant or refusal of bail to an accused in a non-bailable offence like, (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) Nature of accusation and evidence therefor, (iii) Gravity of the offence and punishment which the conviction will entail, (iv) Reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, (v) Character and behavior of the accused, (vi) Means, position and standing of the accused in the Society, (vii) Likelihood of the offence being repeated, (viii) Reasonable apprehension of the witnesses being tampered with, (ix) Danger, of course, of justice being thwarted by grant of bail, (x) Balance between the rights of the accused and the larger interest of the Society/State, (xi) Any other factor relevant and peculiar to the accused. (xii) While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. Furthermore, in the landmark judgment of **Gurucharan Singh and others v. State** (AIR 1978 SC 179), it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant



factors in deciding whether to grant bail or not.

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

In the present case, it is argued on behalf of accused that he is in JC since 02.10.2020. That case property is already recovered and he is no more required for the purpose of investigation. That there is a spread of corona virus including inside the jail. That applicant is sole bread earner of his family and need to take care of his ailing mother. There is no previous conviction of the present accused but he is falsely implicated in another similar matter. That he got roots in the society. As such, it is prayed that he be granted regular bail.

On the other hand, in reply dated 16.10.2020, it is stated by the IO, as also argued by the learned Addl.PP for the state that offence in question is a nuisance to public at large. That present accused met complainant Urmila Gupta on the pretext of securing a personal loan for her and took Rs. 550/- from her alongwith her mobile phone. Such mobile phone is recovered from him while investigation of a connected FIR no. 201/2020. That he is required in other similar FIR also. That investigation is still pending.

I find force in the arguments of learned Addl.PP for the state. Investigation is at the initial stage. Further, the nature of the offence and the manner in which it was committed is serious and



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against public at large of which complainant is a particular victim. If released on bail, he may commit other similar offence or threaten the witness. As such, at this stage, while investigation is still pending, this court is not inclined to grant the relief as sought in the present application. Hence, the same is dismissed.

**With these observations present bail application is disposed of as dismissed. Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Copy of this order be sent to Jail Superintendent concerned through electronic mode.**

  
**(Naveen Kumar Kashyap)**  
**Additional Sessions Judge-04**  
**Central/THC/Delhi**  
**21.10.2020**





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

**Bail Application: 1543/2020**

State Vs Sunny Sethi  
FIR No. 201/2020  
PS.: I.P. Estate  
U/s: 420,411 IPC

21.10.2020

**Present:** Mr. Pawan Kumar, Learned Addl. PP for State.  
Sh. Manish Arora, Ld. Counsel for applicant.


Vide this order, the bail application under section 439 Cr.P.C. on behalf of accused dated 14.10.2020 filed through counsel is disposed of.

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

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

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

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after convictions, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earlier times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial ,but in such case 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the constitution that any persons should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty under Article 21 of the Constitution upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439



CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

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

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

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



**Bafna Vs. State of Maharashtra, AIR 2014 SC 1745 ).**

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for grant or refusal of bail to an accused in a non-bailable offence like, (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) Nature of accusation and evidence therefor, (iii) Gravity of the offence and punishment which the conviction will entail, (iv) Reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, (v) Character and behavior of the accused, (vi) Means, position and standing of the accused in the Society, (vii) Likelihood of the offence being repeated, (viii) Reasonable apprehension of the witnesses being tampered with, (ix) Danger, of course, of justice being thwarted by grant of bail, (x) Balance between the rights of the accused and the larger interest of the Society/State, (xi) Any other factor relevant and peculiar to the accused. (xii) While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. Furthermore, in the landmark judgment of **Gurucharan Singh and others v. State** (AIR 1978 SC 179), it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant

factors in deciding whether to grant bail or not.

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

In the present case, it is argued on behalf of accused that he is in JC since 02.10.2020. That case property is already recovered and he is no more required for the purpose of investigation. That there is a spread of corona virus including inside the jail. That applicant is sole bread earner of his family and need to take care of his ailing mother. There is no previous conviction of the present accused but he is falsely implicated in another similar matter. That he got roots in the society. As such, it is prayed that he be granted regular bail.

On the other hand, in reply dated 16.10.2020, it is stated by the IO, as also argued by the learned Addl.PP for the state that offence in question is a nuisance to public at large. That present accused met the complainant near ITO and asked the complainant Rs. 3000/- and his documents on a promise to get him a job in government and thereafter he disappeared with Rs. 1000/-, which was given by the complainant alongwith documents. During the course of the investigation, such documents of complainant was recovered from him. That he is required in other similar FIR also. That investigation is still pending.

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



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state. Investigation is at the initial stage. Further, the nature of the offence and the manner in which it was committed is serious and against public at large of which complainant is a particular victim. If released on bail, he may commit other similar offence or threaten the witness. As such, at this stage, while investigation is still pending, this court is not inclined to grant the relief as sought in the present application. Hence, the same is dismissed.

**With these observations present bail application is disposed of as dismissed. Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Copy of this order be sent to Jail Superintendent concerned through electronic mode.**

**(Naveen Kumar Kashyap)**  
**Additional Sessions Judge-04**  
**Central/THC/Delhi**  
**21.10.2020**

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

**State Vs Sadiqeen**  
**FIR No. 210/2020**  
**P. S. Sarai Rohilla**  
**U/s: 186,353,307,147,148,149,379,34 IPC**  
**Section 27 Arms Act**

**21.10.2020**

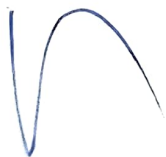
Present: Sh. Pawan Kumar Ld. Addl. PP for the State.  
Sh. Suraj Prakash Sharma, Ld. Counsel for  
accused in person.

Vide this order, bail application u/s 439 Cr.PC dated 01.10.2020 filed by applicant through counsel is disposed of.

It is stated in the application that he is in JC since 11.06.2020; that he has been falsely implicated in the present case; that co accused Shahrukh and another accused Ashqueen are already granted bail by the Ld Sessions court vide order dated 16.09.2020 and 23.09.2020; that role assigned to the present accused is similar to the accused Ashqueen as such on parity also he be granted bail. It is further argued that there is no previous conviction record of the present accused and he is the only bread earner of the family; that charge sheet is already filed; that he is permanent resident of Delhi and the trial is likely to take time. As such it is prayed that he be granted regular bail

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On the other hand, in reply filed by the IO and as argued by Id. Addl. PP for the State it is stated that present FIR was registered on the complaint of SI Pankaj Thakran; that on 10.06.2020 at about 8:30 p.m. at Police Post Inder Lok a person namely Kale came inside the police post regarding a complaint of beating by Mohsin and his brother and also looting of cash from his shop; that such Mohsin and others were called but they started quarreling inside the police post but they were aggressive still and using filthy language. In the meanwhile relative, friends of Mohsin including the present accused arrived and gathered outside the police post and attacked the police officials with lathi, stones, fists and legs while such police officials were on official duty. Further, mobile phone of SI Pankaj was also stolen by them and many police officials sustained bodily injury. It is further stated that one of the most aggressive person was Mohsin, who was instigating other persons and he was aggressive till end. Further, another co-accused Naved @ Pilla was carrying fire arm but most of them run away and could not be caught but such Naved @ Pilla was caught at the entry gate of police post and such Naved @Pilla fired gun shot at the police party and some how police officials saved themselves. As such, present bail application is strongly opposed.



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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



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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

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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 co-accused Shahrukh and Ashquin are already granted bail and role of the present accused is similar to that of those accused persons. Further, investigation is already complete and trial is likely to take time.

In above facts and circumstances, present accused is granted bail subject to furnishing of personal bond in the sum of **Rs. 20,000/- with one sound surety of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

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

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



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**iii) That he will not leave India without permission of the Court.**

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

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

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

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

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

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

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

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

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

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

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

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

**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central/Delhi/21/10/2020)**

SC No. 287/19  
State Vs. Sanjay Tiwari & Ors.  
FIR No. 478/18  
PS Burari

**21.10.2020**

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 the present case, last regular date of hearing was 12.10.2020 and 16.10.2020.

On 16.10.2020, matter was adjourned for 21.10.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions. **This court is holding physically today as per directions.**

**This court is also discharging Bail Roster duty.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State.  
All four accused on bail along with counsel  
Sh. Avdhesh Kumar Singh, advocate.

Statement of accused persons U/S 313 CrPC recorded today in court. Only accused Amar Nath wants to lead DE and wants to summon the record in his defence. He seeks some time to move appropriate application for the same.

As such, put up for further proceedings/ DE on **28.10.2020.**

(Naveen Kumar Kashyap)  
ASJ-04/Central/21.10.2020



**SC:27737/2016**  
**FIR No: 292/2014**  
**PS: Sadar Bazar**  
**State v. Mohd. Ashfaq & Etc.**

**21.10.2020**

*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 the present case, last regular date of hearing was 23.09.2020.

On 23.09.2020, matter was adjourned for 21.10.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing.

**This court is holding physically today as per directions.**

**This court is also discharging Bail Roster duty.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
None for accused.

No adverse order is passed in the interest of justice.

Issue P/w of the accused, if any in JC for next date through VC or otherwise as the situation may prevail on next date of hearing.

**Put up for SA in terms of previous order 25.11.2020.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

**SC: 28320/2016**  
**FIR No: 359/2014**  
**PS: Pahar Ganj**  
**State v. Murgan @ Anna etc.**

**21.10.2020**

*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 the present case, last regular date of hearing was 30.04.2020, 23.06.2020 and 24.08.2020.

On 24.08.2020, matter was adjourned for 21.10.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing.

**This court is holding physically today as per directions.**

**This court is also discharging Bail Roster duty.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
None for accused.

No adverse order is passed in the interest of justice.

Issue P/w of the accused, if any in JC for next date through VC or otherwise as the situation may prevail on next date of hearing.

**Put up for PE in terms of previous order 07.01.2021.**

**Earliest possible next date of hearing is given.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

SC:28212/2016  
FIR No: 29/2012  
PS: DBG Road  
State v. Rohit & Etc.

**21.10.2020**

*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 the present case, last regular date of hearing was 24.08.2020.

On 24.08.2020, matter was adjourned for 21.10.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing.

**This court is holding physically today as per directions.**

**This court is also discharging Bail Roster duty.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
None for accused.

No adverse order is passed in the interest of justice.

Issue P/w of the accused, if any in JC for next date through VC or otherwise as the situation may prevail on next date of hearing.

**Put up for PE in terms of previous order 08.03.2021.**

(Naveen Kumar Kashyap)  
ASJ-04/Central/21.10.2020



**21.10.2020**

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 the present case, last regular date of hearing was 14.10.2020 and 15.10.2020.

On 15.10.2020, matter was adjourned for 21.10.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned as far due to lock-down. But in view of latest directions. **This court is holding physically today as per directions.**

**This court is also discharging Bail Roster duty.**

**Undersigned is also working as link court of Ms.Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Sh. Arbind Kumar Jha, Ld. Counsel for the revisionist.

Heard. Perused.

At present the services upon the parties are allowed through electronic mode / mobile. But Ld. Counsel for the revisionist submits that the mobile number of the respondent is not available with the revisionist.

At this stage, put up for further appropriate order regarding issuance of notice to the respondent **on 11.11.2020.**

(Naveen Kumar Kashyap)  
ASJ-04/Central/21.10.2020



Case No. 27527/2016  
State Vs. Deepak Kumar.  
FIR No. 34/2014  
PS Prashad Nagar

**21.10.2020**

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 the present case, last regular date of hearing was 30.04.2020, 23.06.2020 and 24.08.2020.

On 24.08.2020, matter was adjourned for 21.10.2020.


Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions. **This court is holding physically today as per directions.**

**This court is also discharging Bail Roster duty.**

**Undersigned is also working as link court of Ms.Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Sh. M.K. Bansal, , Ld. Counsel for appellant through physical court hearing.  
Accused on interim bail along with counsel  
Sh.Kapil Kaushik, advocate.

Put up for PE in terms of previous order on **08.03.2021**. Two of the material witnesses be summoned for NDOH.

  
(Naveen Kumar Kashyap)  
ASJ-04/Central/21.10.2020

**21.10.2020**

*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 the present case, last regular date of hearing was 09.10.2020.

On 09.10.2020, matter was adjourned for 21.10.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing.

**This court is holding physically today as per directions.**

**This court is also discharging Bail Roster duty.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Both Appellants in person on bail with counsel Sh. Manoj Sharma in person.  
Mr. Pawan Kumar, learned Addl.PP for State/respondent.

Part arguments heard.

**Put up for further arguments and appropriate orders on 04.12.2020.**

TCR received. Same be retained.

Further, written arguments filed today. Same is taken on record.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

**CA: 84/2020**  
**Mohan Kumar v. State**

**21.10.2020**

*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 the present case, last regular date of hearing was 09.10.2020.

On 09.10.2020, matter was adjourned for 21.10.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing.

**This court is holding physically today as per directions.**

**This court is also discharging Bail Roster duty.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

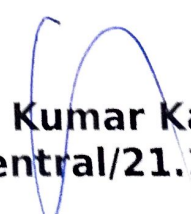
Present: Both Appellants in person on bail with counsel Sh. Manoj Sharma in person.  
Mr. Pawan Kumar, learned Addl.PP for State/respondent.

Part arguments heard.

**Put up for further arguments and appropriate orders on 04.12.2020.**

TCR received. Same be retained.

Further, written arguments filed today. Same is taken on record.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

**SC No. 316/18**  
**State Vs. Gurmeet & Ors.**  
**FIR No. 181/17**  
**PS Lahori Gate**

**21.10.2020**

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 the present case, last regular date of hearing was 13.03.2020.

On 13.03.2020, matter was adjourned for 21.10.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions. **This court is holding physically today as per directions.**

**This court is also discharging Bail Roster duty.**

**Undersigned is also working as link court of Ms.Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Sh. M.K. Bansal, , Ld. Counsel for appellant through physical court hearing.

All three accused on bail along with counsel Sh. B.L. Madhukar, advocate through VC.

Put up for PE in terms of previous order on **09.03.2021.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**



SC No. 819/18  
State Vs. Saeed Bilal  
FIR No. 421/2014  
PS Sadar Bazar

**21.10.2020**

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 the present case, last regular date of hearing was 30.04.2020, 23.06.2020 and 24.08.2020.

On 24.08.2020, matter was adjourned for 21.10.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned as far due to lock-down. But in view of latest directions. **This court is holding physically today as per directions.**

**This court is also discharging Bail Roster duty.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State.  
None for accused.

Put up for PE in terms of previous order on  
**09.03.2021.**

(Naveen Kumar Kashyap)  
ASJ-04/Central/21.10.2020

**MISC. APPLICATION**

**State v Mukesh Jardari Wakunde**  
**FIR No.: 50/10**  
**PS: Nabi Karim**

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Akshit Dua, Ld. Counsel for applicant through VC.

Arguments heard on application dated 17.10.2020 filed by accused Mukesh Jardari Wakunde for extension of order dated 22.08.2020 till next date of hearing. Same is heard and allowed till next date of hearing.

**Put up on 13.01.2021.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

**SC NO: 28445/2016**

**State v Mukesh Jardari Wakunde**  
**FIR No.: 50/10**  
**PS: Nabi Karim**

**21.10.2020**

*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.*

**This court is holding physically today as per directions.**

**This court is also discharging Bail Roster duty.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Akshit Dua, Ld. Counsel for applicant through VC.

**Put up for PE in terms of previous order on 13.01.2021.**

**Earliest possible date is given.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

**SC:28296/2016**  
**FIR No: 292/2014**  
**PS: Rajinder Nagar**  
**State v. Pooja**

**21.10.2020**

*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 the present case, last regular date of hearing was 23.04.2020, 16.06.2020, 17.08.2020 & 14.10.2020.

On 14.10.2020, matter was adjourned for 21.10.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing.

**This court is holding physically today as per directions.**

**This court is also discharging Bail Roster duty.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Diwakar Chaudhary, Ld. Counsel for accused no.1 and 2 in person.  
Sh. Bhuvneshwar Sharma, Ld. Counsel for accused no.3 Munni through VC.  
Sh. Anang Pal Singh, Ld. Counsel for accused no.4 with accused no.4 on bail in person.

Accused Pooja is stated to be on interim bail at present.

**Put up for arguments on behalf of accused no.1 and 2 at 2 pm today itself as this is one of 20<sup>th</sup> oldest matter.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**



**21.10.2020**

**At 2 pm.**

Present: Mr. Pawan Kumar, learned Addl. PP for State.  
Sh. Diwakar Chaudhary, Ld. Counsel for accused no.1 and 2 in person.  
Sh. Bhuvneshwar Sharma, Ld. Counsel for accused no.3 Munni through VC.  
Sh. Anang Pal Singh, Ld. Counsel for accused no.4 with accused no.4 on bail in person.

Arguments heard from Ld. Addl. PP for the State.

Final arguments in detail heard from Sh. Diwakar Chaudhary, Ld. Counsel for accused no.1 and 2.

**At request, put up for final arguments on behalf of accused no. 3 and 4 on 27.10.2020 at 2pm.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**



**Crl. Appeal: 77/2019**

**Rajender Kumar v. M/s. Ajay Industrial Corporation P. Ltd.**

**21.10.2020**

*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.*

**This court is holding physically today as per directions.**

**This court is also discharging Bail Roster duty.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: None for appellant.  
Navneet Sharma, Ld. Counsel(**mobile no. 9868546432, e-mial id-navneetsharmaadvocate@gmail.com**)for accused alongwith AR Sh. Manjeet Singh in person.

In the interest of justice, one more opportunity is granted to Appellant to address final arguments through VC for **12.11.2020** or otherwise as per further directions, if any.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

CA:152/2020

**Bhoop Singh Aggarwal v. Harinder Kumar Singh**

**21.10.2020**

*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.

In the present case, last regular date of hearing was 21.08.2020,22.08.2020,20.10.2020.

On 20.10.2020, matter was adjourned for 21.10.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing.

**This court is holding physically today as per directions.**

**This court is also discharging Bail Roster duty.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: None.

No time left.

**Put up for orders/clarifications, if any through VC on 29.10.20.**

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

CA: 437/2019

**Nikhil Kapoor and ors v. Shubhi Gupta**

**21.10.2020**

*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.

In the present case, last regular date of hearing was 12.10.2020.

On 12.10.2020, matter was adjourned for 21.10.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing.

**This court is holding physically today as per directions.**

**This court is also discharging Bail Roster duty.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Appellant in person.  
Respondent in person.

Further, efforts for reconciliation between parties made.

Put up for settlement, if any/clarifications from Appellant side and orders on present appeal for 27.10.2020.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**



Bail Application of applicant  
State Vs. Rahul Sharma  
FIR No. 339/2016  
PS Darya Ganj

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Sh. Pawan Kumar, Ld. Addl PP for the State.  
Sh. S.N. Shukla, Ld. Counsel for the accused.

Further arguments heard,

Put up for order/ clarifications **on 03.11.2020.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

Bail Application of applicant Arshad  
State Vs. Tehsin @ Kevda  
FIR No. 20/2015  
PS Kamla Market

21.10.2020

This court is holding physically today as per directions.

Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.

Present: Sh. Pawan Kumar, Ld. Addl PP for the State.  
Sh. J.S. Mishra, Ld. Counsel for the accused.

Further arguments heard,

Put up for order/ clarifications on 03.11.2020.

(Naveen Kumar Kashyap)  
ASJ-04/Central/21.10.2020

SC No. 57/18  
FIR No. 142/2017  
PS Lahori Gate  
State Vs. Shakil & Others

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Sh. Pawan Kumar, Ld. Addl PP for the State.  
Sh. A. Qureshi, Ld. Counsel for the accused.

Further clarifications given.

No time left.

Put up for order/ clarifications on **02.11.2020**.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

Bail Application of Vineet @ Lala @ Arjun  
FIR No. 112/2019  
PS Wazirabad  
State Vs. Karan Bhardwaj

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Sh. Pawan Kumar, Ld. Addl PP for the State.  
Sh. Anuj Bhardwaj, Ld. Counsel for the accused.

Further clarifications given.

No time left.

Put up for order/ clarifications **on 02.11.2020.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**





**State Vs. Mahesh @ Mannu**  
**FIR No. 699/2014**  
**PS Karol Bagh**

**21.10.2020**

This court is holding physically today as per directions.

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State.  
None for accused.

Today the case was fixed for order on this application for providing medical facility to the accused at Tihar Jail No.3.

Arguments already heard in detail.

In the present application it is stated that he is in JC since 2014; that he is suffering from acute lower back pain; that concerned CMO has advised immediate physiotherapy but concerned official namely Vinay Thakur did not allow the same and asked for a bribe of Rs. 10,000/- and such Vinay Thakur is torturing the accused for money. As such, it is requested that directions be issued for medical treatment and physiotherapy of the present accused.

In reply dated 23.09.2020 it is confirmed that accused is suffering from lower back pain. It is further stated that on latest examination on 21.09.2020 Senior Resident Orthopedic advised him oral medicines and ointment for local application. It is further claimed

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that he is provided all necessary medicines.

Needless to say that it is the duty of the jail Supdt. Concerned to ensure that all necessary medical facility including physiotherapy is provided to the inmate, if so prescribed by the concerned Doctor and if such facility is not available inside the jail then it be provided from the concerned attached hospital including DDU.

The concerned Jail Supdt. Is directed accordingly.

Further, concerned Deputy Supdt. is also directed to look into the grievance of the present inmate relating to the Jail staff Vinay Thakur (DS).

With these observations present application is disposed off.

A copy of this order be sent to concerned Jail Supdt.

Further a copy be sent to applicant/ accused through concerned Jail Supdt through electronic mode.

**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central/Delhi/21/10/2020)**

**State Vs. Mahesh @ Mannu**  
**FIR No. 699/2014**  
**PS Karol Bagh**

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State.  
None for accused.

Today the case was fixed for order on this application for interim bail.

Arguments already heard in detail.

In the present interim bail application dated 21.09.2020 it is submitted that mother of the accused is not well and suffering from various ailments and require medical attendance; that he was granted interim bail on two occasions and he duly surrendered after availing the same; that matter is still pending for disposal despite directions by Hon'ble High Court due to lockdown. As such, it is prayed that he be granted interim bail to take care of the mother.

On the other hand, a reply is filed by IO and as argued by Ld. Addl. PP for the State.

The present accused is involved in 5 criminal cases including the present one and three of the other cases are for attempt to murder; that his presence may not be secured, if he is granted interim bail. As such present application is strongly opposed.

I have heard both the sides and gone

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through the record.

Having regard the nature of allegations against the present accused and his criminal involvement in other cases and the reasons stated for such interim bail this court is not inclined to grant the relief sought in the present application. The present application is accordingly dismissed.

With these observations present application is disposed off.

A copy of this order be sent to concerned Jail Supdt.

Further a copy be sent to applicant/accused through concerned Jail Supdt through electronic mode.

  
**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central/Delhi/21/10/2020)**



**State Vs. Raja Babu @ Gandhi**  
**FIR No. 146/2018**  
**PS Timar Pur.**

**21.10.2020**

This court is holding physically today as per directions.

***Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.***

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State.  
Sh. A. A. Qureshi, Ld. Counsel for the accused.

This is the fourth application for interim bail moved by the accused on the ground that he still fall under the criteria for relaxed interim bail given by Hon'ble High Power Committee of Hon'ble High Court. It is further argued that in the minutes of meeting dated 31.07.2020 it is clarified that present accused under the present facts and circumstances falls under such interim bail criteria; that he is in JC since 21.07.2018.

On the other hand, it is submitted by Ld. Addl.PP for the State that it is clear from the last page of minutes of meeting dated 31.07.2020 that case of present accused is not covered in the same.

I have heard both the side and gone through the record including the criteria given by Hon'ble High Power Committee.

Interim bail of the present accused on similar ground is already dismissed by this court on 23.06.202, and 04.09.2020. Further this court is unable

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to agree with the arguments of Ld. Counsel for accused that he is entitled to such relaxed interim bail criteria. Further, present application is moved only on 06.10.2020 and as per such guidelines such interim bail criteria was applicable till 30.09.2020 only. Further, it is clarified by Hon'ble High Power Committed ultimately it is the discretion of the court concerned based on the facts and circumstances of particular case to exercise discretion to grant interim bail or not.

With these observations present application is dismissed.

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

  
**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central/Delhi/21/10/2020)**

**CA: 147/2020**  
**State v. Mohd. Sharif**

**21.10.2020**

*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.*

**This court is holding physically today as per directions.**

**This court is also discharging Bail Roster duty.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Appellant in person with counsel Sh. Prince Sharma.

Part arguments in detail heard.

Put up for further arguments including regarding maintainability of present appeal against order in question dated 30.07.2020, on **09.11.2020 through VC.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**



**21.10.2020**

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 the present case, last regular date of hearing was 30.09.2020, 06.10.2020, 16.10.2020.

On 16.10.2020, matter was adjourned for 21.10.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned as far due to lock-down. But in view of latest directions. **This court is holding physically today as per directions.**

**This court is also discharging Bail Roster duty.**

**Undersigned is also working as link court of Ms.Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Sh. M.K. Bansal, , Ld. Counsel for appellant through physical court hearing.  
Sh. Pawan Kumar, Ld. Addl. PP for the State/ respondent.

Arguments heard in detail.

Put up for judgment/ clarifications, if any, through

**VC on 28.10.2020.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**



**BAIL BOND OF DEEPAK @ BUNTY**

**State v. Ajay Sharma  
FIR No.: 506/2015  
PS: Nabi Karim  
U/s: 364A,120B,506,34 IPC**

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Ram Prakash Soni, Id. Counsel for applicant.

Verification report dated 16.10.2020 filed by ASI Satish Kumar,  
in view of the same, Bail Bond is accepted of both the sureties.

**Release warrant be prepared accordingly.**

**(Naveen Kumar Kashyap)  
ASJ-04/Central/21.10.2020**



**BAIL BOND OF DINESH @ DHANNA**

**State v. Babloo  
FIR No.: 251/2019  
PS: Sarai Rohilla**

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

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

Verification report of FDR of surety Maina filed by IO dated 16.10.2020. Same is taken on record.

**(Naveen Kumar Kashyap)  
ASJ-04/Central/21.10.2020**



**BAIL APPLICATION OF SHAHI RAM**

**State v. Gaurav Chauhan  
FIR No.: 199/2009  
PS: Kashmere Gate  
U/s: 364A,120B,34 IPC**

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
None for applicant.

Put up for clarification in terms of previous order whether it is a regular or interim bail application, on **02.11.2020**.

**(Naveen Kumar Kashyap)  
ASJ-04/Central/21.10.2020**



**BAIL APPLICATION OF SUNIL RATHORE**

**State v. SUNIL & ORS.**

**FIR No.: 415/2015**

**PS: Kotwali**

**U/S: 395,397,365,201,412,120B , 34 IPC & 25,54,59 Arms Act**

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. O.P. Saxena, Ld. Counsel for applicant.

Part arguments heard.

Put up for further arguments including regarding previous regular bail application, if any, filed by the present accused before Sessions Court, on **27.10.2020**.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**





**MISC Application**

**State v. Ajay Pal**  
**FIR No.: 678/2015**  
**PS: Subzi Mandi**

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Hans Raj Singh, through VC.

This is an application for early hearing on bail application dated 17.03.2020 of the accused Sudhir Pal.

Heard.

Such early hearing application is allowed.

**Put up for arguments and appropriate orders on such regular bail application on 03.11.2020.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/21.10.2020**

**BAIL APPLICATION OF RAKESH**

**State v. Rakesh  
FIR No.: 236/2019  
PS: Subzi Mandi  
U/s: 308,34 IPC**

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
None for accused.

As per record, reply not filed by IO.

Issue fresh notice to IO to file reply.

**Put up for reply, arguments and appropriate orders for  
04.11.2020.**

**(Naveen Kumar Kashyap)  
ASJ-04/Central/21.10.2020**

**BAIL APPLICATION OF SAHIL**

**State v. Vipin Sharma  
FIR No.: 213/2018  
PS: Lahori Gate  
U/s: 95,412,120B,34 IPC**

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Surender Tyagi, Ld. Counsel for applicant through VC.

Issue notice of this 6<sup>th</sup> regular bail application to IO/SHO concerned.

**Put up for reply/arguments and appropriate orders for  
03.11.2020.**

**(Naveen Kumar Kashyap)  
ASJ-04/Central/21.10.2020**

**Application for change of surety**

**State v. Lokesh etc.  
FIR No.: 348/2015  
PS: Nabi Karim  
U/s: 392,397,411 IPC**

**21.10.2020**

**This court is holding physically today as per directions.**

**Undersigned is also working as link court of Ms. Neelofer Abida Parveen, Ld. ASJ, Central.**

**An application for change of surety filed.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Convict Mohit in person with new surety Munna and counsel  
Sh. Vineet Jain.

IO/SHO concerned to verify the address as well as  
security/vehicle for 28.10.2020 at 2 pm through VC.

**(Naveen Kumar Kashyap)  
ASJ-04/Central/21.10.2020**