

FIR No. 131/20
PS Rajinder Nagar
State Vs Unknow (through applicant Hanumant Singh)

20.10.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of circular no. 992/30066-30235 DJ(HQ)/ Covid-19 Lockdown/Physical Courts Roster/2020 dt. 25.09.2020 issued by Ld. District & Sessions Judge (HQ).

Present: Ld. APP for the State.
Sh. Omvir Singh, Ld. Counsel for applicant.
IO/ASI Mahesh Kumar in person.

The present application was moved on behalf of applicant through email. Scanned copy of reply under the signatures of IO/ASI Mahesh Kumar is received through email. Copy stands supplied to Ld. Counsel for applicant, electronically.

At this stage, counsel for applicant seeks time to bring on record the surviving member certificate of deceased owner of vehicle, namely, Ramkinkar Singh alongwith the NOC of the other legal representatives of deceased registered owner, issued in applicant's favour.

Time granted.

Let the copy of the surviving member certificate alongwith the NOC of the other LRs of deceased owner qua release of vehicle in question in applicant's favour, be filed through email on 22.10.2020 by 10:00 am.

Put up for arguments on 22.10.2020 at 12:00 noon.

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

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RISHABH
KAPOOR
Date:
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(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
20.10.2020

FIR No. 195/2020
PS Rajinder Nagar
State vs. Mohit Singh

20.10.2020

**(Through Video Conferencing over Cisco Webex Meeting)
Case taken up in view of circular no. 992/30066-30235 DJ(HQ)/ Covid-19 Lockdown/Physical Courts Roster/2020 dt. 25.09.2020 issued by Ld. District & Sessions Judge (HQ).**

Present: Ld. APP for the State.

Sh. Ravinder Gupta, Ld. Counsel for applicant/accused.

IO/SI Vinod Kumar.

Heard. Record perused.

This order shall dispose off an application for grant of bail moved on behalf of applicant/ accused Mohit Singh.

It is averred on behalf of the applicant that he has been falsely implicated in the present case and the alleged recovery of weapon has been planted by the police. It is further averred that applicant is undergoing judicial custody since 02.09.2020. It is further averred that the investigation of this case is completed and it is not likely that the applicant will abscond, if he release on bail. It is with these averments, prayer has been made to admit the applicant on bail.

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

At the very outset, it is pertinent to mention here that the present application is the **second bail application** moved on behalf of the applicant, seeking his enlargement on bail. It may be added here that vide order dated 25.09.2020, the earlier bail application of the accused/applicant, was dismissed by this court. It has been averred on behalf of applicant that since the accused is undergoing judicial custody since 02.09.2020, therefore, it tantamount to a changed circumstance, entitling the applicant for grant of bail. However, in this regard it is pertinent to mention here that even though there is no bar in entertaining successive bail applications, by consideration before the same court. There also lies not time-limit, set for moving the court for bail, after the first or previous bail

application, is rejected. But, it should be only when some new facts and circumstances have been developed, after rejection of previous bail application, then only the successive bail application should be considered on merits. *In Parvinder Singh vs. State of Punjab 2003 12 SCC 528*, the Hon'ble apex court held that though an accused has right to move successive bail applications for grant of bail, but the court entertaining such subsequent application, has a duty to consider the reasons and grounds on which earlier bail applications were rejected. In such cases, the court has a duty to record what are the fresh grounds which persuade it to take a view, different from one taken in earlier application. Similarly, in *State of Madhya Pradesh versus Kajad AIR 2001 SC 3517*, it was held that it is true that successive bail application are permissible under the changed circumstances, but without the change in circumstances, the second bail application would be deemed, seeking review of earlier judgment, which is not permissible under the criminal law.

Now, coming to the contentions advanced on behalf of the accused/applicant, qua changed circumstances justifying maintainability of present application. As per the version of the Ld. Counsel for applicant, since the accused is undergoing J/C since long, hence in view of this changed circumstance, the present bail application can well be entertained by this court. In this regard, it is pertinent to add that the authorities cited above clearly suggests that the successive bail applications are maintainable before the same court only when, circumstance which led to the dismissal of earlier application, is shown to have been changed. Mere, branding a circumstance or glossing it with a term '*changed circumstance*', does not, fall under the purview of circumstance, which leads to maintainability of successive bail application unless the same has direct bearing on the grounds upon which the decision on earlier application was made. If, without establishing the said changed circumstance, the court ventures itself into entertaining the successive bail applications, it virtually tantamount to review of its own order, which certainly is not contemplated under the scheme of Cr.P.C. As far as the assertions of Ld. Counsel for applicant are concerned, pertinently, the perusal of order dated 25.09.2020 is suggestive of the fact that the first bail application as moved on behalf of the applicant/accused Mohit Singh was dismissed by this court primarily on following grounds, which are, first, the previous bad antecedents of the applicant, justifying the apprehensions of the prosecution regarding the possibility of commission of offences of like nature by the accused/applicant, and secondly, on the count that there existed a likelihood that if admitted on bail, the applicant will dissuade the prosecution witnesses, thirdly, on the ground that the investigation was at an initial stage and lastly, on the ground that there existed chances of applicant fleeing away from the process of law in case of his

enlargement of bail. Pertinently, taking into consideration the previous antecedents of the accused and the initial stage of the investigation, the earlier bail application of accused/applicant was dismissed. The fact that, the applicant has previous dented criminal antecedents, remains undisputed and as such nothing cogent has been placed on record on behalf of the accused/applicant vanishing the apprehension of the prosecution that if admitted on bail, the accused will not indulge himself in offences of similar nature or will not dissuade the material prosecution witnesses. Further, the matter is still pending investigation and charge-sheet is yet to be filed by the police. In such circumstances, this Court is of the firm view that the present application as moved on behalf of applicant lacks any maintainability.

In the light of my discussion made above, and also placing on reliance on the authorities cited above, since the earlier bail application of the applicant was dismissed on the ground of existence of likelihood of commission of offences of similar nature by the applicant in case of his release, possibility of his dissuading the prosecution witnesses, the initial stage of investigation and chances of his fleeing away from process of law, in case of is enlargement on bail, therefore merely on account of the fact that the applicant is undergoing judicial custody since 02.09.2020, the prayer of the applicant cannot be accepted. In these circumstances, the application in hand deserves dismissal and as such the present application is hereby dismissed.

The application is accordingly disposed off.

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

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

RISHABH
KAPOOR

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(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
20.10.2020