

FIR No. 367/2013

PS I.P. Estate

State Vs. Shiv Kumar Mishra (through applicant Manoj Kumar)

28.09.2020

(Matter has been physically heard)

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

Present: Ld. APP for the State.

Applicant Sh. Manoj Kumar (joined through VC).

The present application was filed through email.

Heard. Record perused.

This order shall dispose off application for release of RC of vehicle no. DL 9CN 6132, moved by applicant Manoj Kumar.

Perusal of main case file in would reveal that the main case proceedings stands culminated vide order dt. 13.05.2019 as per the record, the offence u/s 338 IPC was compounded between the injured and accused. Whereas, accused was convicted for offence u/s 279 IPC on the basis plea of guilt made by him.

As per the record, applicant Manoj Kumar is the registered owner of the vehicle bearing no. DL 9CN 6132 and RC of same is appended in case file.

Since, the main case proceedings already stands culminated and vide order dt. 13.05.2019 the directions were also issued for return of original documents to the rightful persons, therefore, the applicant being owner of the vehicle bearing no. DL 9CN 6132 appears to be prima facie entitled for custody of RC in question.

Accordingly, the original RC of vehicle No. DL 9CN 6132 be returned to applicant against due receiving and proper identification.

The Ahlmad is directed to retain the photocopy of the RC on record.

The self attested copy of identity proof of applicant, be also retained on record.

Shiv Kumar
28/09/2020

Application is accordingly disposed off.

Copy of the order be sent to applicant to through email.

One copy of this order be uploaded to Delhi District Courts website.



(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
28.09.2020

FIR No. 180/20
State Vs. Rafiq Ali
PS I.P. Estate

28.09.2020

(Matter has been physically heard)

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

Present: Ld. APP for the State.

Sh. Pratap Singh, Ld. counsel for applicant (joined through VC).

Accused in JC (produced through VC).

The present application was filed through email.

Scanned copy of report under the signatures of Dy. Superintendent, Central Jail No.4 is received and perused. Copy stands supplied to counsel for applicant, electronically.

As per the report, the accused could not be released from Jail as the release orders were not received in jail.

At this stage, Sh. Atma Ram, Ahlmad submits that the bail bonds furnished by accused have not been accepted till date and same are listed for today before Court of Ms. Arjinder Kaur, Ld. Duty MM.

In such circumstances, as nothing further remains to be done in the present application, accordingly, same stands disposed off.

It be tagged with the relevant case record.

Scanned copy of this order be sent to counsel for applicant through email.

Scanned copy of this order be sent to uploading on Delhi District Courts Website.

(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
28.09.2020

e-FIR No. 12296/20
PS Rajinder Nagar
State Vs. Lalit Kumar & Anr.

28.09.2020

(Matter has been physically heard)

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

Present: Ld. APP for the State.

IO/HC Ravinder Singh in person.

IO has filed the charge-sheet pertaining to case e-FIR No.12296/20
u/s 379/411/34 IPC, PS Rajinder Nagar. It be checked & registered.

IO submits that accused Ritik is admitted on Court bail and accused
Lalit @ Aniket is undergoing JC. Bail bonds furnished by accused Rithik are also
perused.

Heard. Record perused.

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

Let accused Ritik be summoned on 17.10.2020.

Accused Lalit @ Aniket be also produced through VC on date fixed.
Meanwhile, IO is directed to supply the copy of charge-sheet to accused Lalit @
Aniket through concerned Jail Superintendent, before the date fixed.

Put up for appearance of accused persons and FP as per law on date
fixed.

Copy of this order be given dasti to IO for compliance.

One copy be sent to concerned Jail Superintendent through email,
for compliance.

(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
28.09.2020

FIR No. 213/20
State Vs. Abhishek
PS Rajinder Nagar

28.09.2020

(Matter has been physically heard)

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

Present: Ld. APP for the State.

Sh. Anil Gupta, Ld. counsel for applicant/accused (joined through VC).

IO/ASI Brijender Kumar in person (joined through VC).

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

Reply under the signatures of IO/ASI Brijender Kumar is received.

Copy of same is already supplied to counsel of applicant/accused, through email.

Copy of order dt. 26.09.2020 passed by Sh. Pranat Kumar Joshi, Ld. Duty MM is also perused. Vide such order the accused was remanded to JC till today and the liberty was also given to counsel for applicant/accused to move fresh application before the concerned Court.

Heard. Record perused.

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

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

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

Handwritten signature and date: 28/09/2020

IO submits that in the Adhar Card of accused is name his mentioned as Suraj S/o Arun and the accused is also having a permanent residence in Delhi, therefore, if admitted on bail, he may flee away from the process of law.

Counsel for applicant/accused further submits that the Alias name of accused is Suraj and he undertakes to furnish a sound local surety, in case the accused is admitted on bail.

In the present case, the applicant was arrested for the offences u/s 356/379/411 IPC. As per reply filed by IO/ASI Brijender Kumar, the recovery of case property has already been effected from the applicant/accused, in the present case. It is also not disputed that applicant/accused is the first time offender having no previous criminal antecedents. As the recovery of the case property has already been effected from the accused, coupled with the fact that the accused has never been involved in any of the offences, and as such is having clean previous antecedents, therefore, there does not exist any apprehension that if enlarged on bail, he will commit offences of like nature or will dissuade the prosecution witnesses. Further, the trial of the case would take a long time and till then the liberty of the accused cannot be curtailed, when his custody is as such not required for the investigation purposes. Even otherwise also, the presence of the accused during the course of remaining investigation, if any, as well as during trial can be ensured by taking sufficient sureties undertaking to ensure his presence. Besides, merely on the ground that accused is not a permanent resident of Delhi, his liberty cannot be curtailed. If so, in the circumstances, I am of the view that there exists no ground in further curtailing the liberty of the applicant/accused.

At this juncture, it is also pertinent to cite the observations made by the Hon'ble apex court *In Sanjay Chandra versus CBI (2012) ISCC 40*, wherein it was observed that the courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at trial but in such cases, necessity is the operative test. The Hon'ble Apex court further observed that in this country, it would be quite contrary to the concept of personal liberty


28/09/2020

enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and that it would be improper for any court to refuse bail as a mark of this approval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for purpose of giving him a taste of imprisonment as a lesson.

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

- 1) That the applicant shall furnish personal bonds in the sum of Rs.15,000/- with one surety in the like amount each to the satisfaction of Ld. Duty MM (on court duty).
- 2) The surety shall be permanent resident of Delhi.
- 3) That the applicant shall make himself available as and when required to do so by the investigating agency or the police;
- 4) That the applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing any facts to the court or the police;
- 5) That the applicant shall not tamper with the prosecution evidence nor he will try to win over the prosecution witnesses or terrorize them in any manner; and
- 6) That the applicant shall not deliberately and intentionally act in a manner which may tend to delay the investigation and trial of the case.
- 7) That the applicant shall not leave the territories of India during the pendency of present case proceedings except with the permission of the court.

The application is accordingly disposed of.

Scanned copy of this order be sent to the Ld. Counsel for applicant through email.

 28/09/2020

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)
MM-03(Central),THC,Delhi
28.09.2020

FIR No. 266/19
PS I.P. Estate

28.09.2020

(Matter has been physically heard)

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

Present: Ld. APP for the State.

Sh. Ravi Chaturvedi, Ld. counsel for applicant.

IO/SI Mohit Asiwali in person.

HC Manoj Kumar in person.

HC Manoj Kumar submits that the detailed reply could not be filed
by SHO concerned as the case file was with the previous IO/SI Mohit Asiwali.

At this stage, SI Mohit Asiwali has filed detailed reply. Copy
supplied.

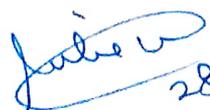
Heard. Record perused.

This order shall dispose off application seeking permission for sale
of vehicle bearing no. DL IRS 6161, moved by applicant Swadesh.

It is submitted on behalf of applicant submitted that applicant is the
registered owner of vehicle in question. It is further submitted that the vehicle in
question has been released to applicant on superdari vide order dt. 09.01.2020. It is
further submitted that due to Covid-19 Pandemic situation, applicant is facing
difficulty in payment of installments of the vehicle, therefore, he intends to sell the
same for the survival of his family. With these submissions, applicant has sought
permission for selling the vehicle in question.

As per the reply filed by IO, the vehicle in question is no more
required for purpose of investigation. Further, the perusal of FIR would reveal that
applicant Swadesh is the complainant in the present case FIR. The perusal of order
dt. 09.01.2020 passed by this Court would also reveal that vehicle in question has
been released in favour of applicant/registered owner Swadesh Kumar on superdari.

At this juncture, it becomes pertinent to mention observations made
by Hon'ble Delhi High Court in matter of "Manjit Singh Vs. State Crl.MC No.


28/09/2020

4485/2013 dt. 10.09.2014”, wherein it was observed that the production of property which has evidentiary value during evidence is a part of fair trial. With the advanced technology, it is not necessary that the original of property inevitably has to be preserved for the purpose of evidence in the changed context of times. The reception of secondary evidence is permitted in law. The techniques of photography and photo copying are far advanced and fully developed. Movable property of any nature can be subject matter of photography and taking necessary photographs of all the features of the property clearly is not a impossible task in photography and photo copying. Besides, the mahazar could be drawn clearly describing the features and dimensions of movable properties which are subject matters of criminal trial.

In the present case, the applicant is the registered owner of vehicle in question. The vehicle has already been released to applicant on superdari. Further, as per the FIR, the applicant is the complainant in the present case and the perusal of report of IO would reveal that the whereabouts of accused persons are yet to be traced by the police. The applicant seeks permission for selling the vehicle due to financial difficulties faced by him on account of the Covid-19 Pandemic. In view of the above facts and circumstances, the application in hand is allowed and applicant is granted to permission to sell the vehicle in question. The SHO concerned shall ensure that the photographs of the vehicle are preserved by the IO and same shall form part and parcel of the case record.

It is further clarified that nothing in this order shall be construed as any direction effecting the right of the hypothecation, if any on the vehicle in question.

Application is accordingly, disposed off.

Scanned copy of this order be sent to counsel for applicant and SHO concerned through email, for compliance.

Scanned copy of this order be sent to uploading on Delhi District Courts Website.


(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
28.09.2020