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

Bail Application No.: 1551/2020

State V. Krishan S/o Suresh
FIR No.: 32/2020
P. S.Kamla Market
U/s: 365, 394, 397, 411, 34 IPC

26.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Sh. Ajay Kumar Kowal, learned counsel for the applicant through VC.

Vide this order, bail application u/s 439 Cr.PC dated 15.10.2020 filed by applicant through counsel is disposed off.

It is stated in the application that he is an innocent person and has been falsely implicated in the present case; that chargesheet has already been filed; that co-accused has already been granted bail; that he is in JC since 24.02.2020; that he is neither previously convicted nor has been involved in any other case and has a clean antecedent; that he was lifted by the police later on; that the trial will take long time and no purpose would be served by keeping him in JC. As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by the IO, as also argued by learned Addl.PP for the State it is stated that present accused alongwith other co-accused in the night of 14.02.2020 looted the taxi of the complainant alongwith his purse etc at gun point and made the complainant drive towards Delhi boarder where complainant somehow escaped and made PCR call at Alipur. That during the course of investigation present accused was arrested in another case FIR No. 29/20 PS Punjabi Bagh and robbed mobile alongwith RC was recovered from his possession. It is further argued that offence is very serious in nature; that he came with co-accused at the place of incident alongwith his

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motorcycle. It is further claimed that his family do not have control over him. As such, present application is strongly opposed.

I have heard both the sides.

The personal liberty is a priceless treasure for a human being. It is founded on the bed rock of constitutional right and accentuated further on human rights principle. The sanctity of liberty is the fulcrum of any civilized society. Deprivation of liberty of a person has enormous impact on his mind as well as body. Further article 21 Of the Constitution mandates that no person shall be deprived of his life or personal liberty except according to procedure established by law. Further India is a signatory to the International Covenant On Civil And Political Rights, 1966 and, therefore, Article 21 of the Constitution has to be understood in the light of the International Covenant On Civil And Political Rights, 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

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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.

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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, present accused as per the prosecution not arrested but later on was arrested in some other case and found involved in the present case. As per the case of prosecution, robbed mobile in question

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is recovered from him. Thus, this attract offence u/s 411 IPC. He is in JC since 24.02.2020. Further, as far as present accused is concerned, nothing remains to be recovered at his instance. In fact, the period for seeking police remand is already over. As such, no purpose would be served by keeping such accused in JC. Investigation and thereafter trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case in India i.e. an accused is presumed innocent unless proved guilty. In present case, no previous conviction record is placed on record by the IO and at best there are cases alleging involvement of present accused in other similar cases.

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

- i) Applicant shall not flee from the justice;*
- ii) Applicant shall not tamper with the evidence;*
- iii) Applicant shall not threaten or contact in any manner to the prosecution witnesses ,*
- iv) Applicant shall not leave country without permission;*
- v) Applicant shall convey any change of address immediately to the IO and the court;*
- vi) Applicant shall also provide his mobile number to the IO;*
- vii) Applicant shall mark his attendance before concerned IO (and if IO is not available then to concerned SHO) every alternative /second day through mobile by sharing his/her location with the SHO concerned till the chargesheet is filed;*
- viii) Applicant shall further make a call, preferably by audio plus video mode to concerned IO, (and if IO is not available then to concerned SHO) once a week, preferably on Monday between 10 a.m. to 5 p.m. till the chargesheet is filed.*

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- ix) Applicant shall keep their such mobile number 'Switched On' at all the time, particularly between 8 am to 8 pm everyday till the chargesheet is filed*
- x) That applicant will cooperate with the investigation / IO / SHO concerned and will appear before IO / Trial Court as and when called as per law.*
- xi) Applicant will not indulge in any kind of activities which are alleged against him in the present case.*

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

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

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

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

I note that in the present case the bail bonds have been

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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.

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

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

**NAVEEN KUMAR
KASHYAP**

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**(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi
26.11.2020**

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

BAIL APPLICATION No.:1966/2020
BAIL APPLICATION No.:1967/2020

State v. Gaurav Mittal
State v. Radhika Mittal

FIR No.: 436/2020
PS: Karol Bagh

26.11.2020

This court is also discharging Bail Roster Duty.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State through VC.
Sh. Sarfaraz Asif, Ld. counsel for applicants/accused through VC.
Counsel for complainant is present through VC.

1. Vide this common order separate anticipatory bail application u/s 438 Cr.P.C. filed by applicants Gaurav Mittal and Radhika Mittal dated 23.11.2020 are disposed of.

2. In nutshell, it is argued on behalf of the applicants/accused that the complainant and the accused are known to each other and both sides are in the business of car dealing, sale/purchase. That there is financial transactions between both the sides and even accused side made certain payments to the complainant side. It is further stated that present FIR is registered in connivance of local police and thereafter a notice u/s 41A Cr.P.C. is served upon both the applicants. That there is apprehension that they may be falsely implicated in the present case. It is further claimed that accused side never agreed to sell any car in question, as otherwise alleged in the FIR to the complainant. That Rs. 5 lacs paid through bank by the complainant to the accused was return of money which was

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borrowed by complainant from accused. That he is ready to abide by any condition which may be imposed upon him. As such, it is prayed that concerned SHO/IO be directed to release the applicants on bail in the event of their arrest.

3. On the other hand, it is submitted on behalf of the complainant that there are specific and serious allegations against both the accused/applicants. That they not even cheated the present accused but 6-7 persons also. That their relative falsely claimed that accused Gaurav is missing and accused Radhika even threatened the applicant and other creditor that they will be implicated in the missing aspect of Gaurav. But is is not denied that there is a dealing between complainant and accused side but it is stated that there are other commercial deal also between the parties including about "Committee". As such, present application is opposed.

4. It is further argued by Ld. Addl. PP for the state and as also stated in the reply filed by the IO that car in question is already sold by the accused side to a third person and same is further resold already. It is further stated that accused side had malafide intention to cheat the complainant right from the beginning. As such, present bail application is strongly opposed.

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

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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

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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

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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;

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(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. In this background of the case law we come back to the present case. In reply filed by IO, it is not the case of prosecution that custodial interrogation of the present accused is needed. Further, commercial dealing between the parties is not in dispute. Further, there is financial transactions from both the sides. Further, whether the accused persons had be malafide intention to cheat from the beginning or whether later on, they found a better customer and as such, they deem it fit to sale it to a third party, is a matter of trial and for that the accused side seek appropriate compensation in civil law also as per law. Therefore, having regard to the nature of accusation and the relationship between the parties and the nature of offence, both the accused/applicants be released on bail

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in the event of his/her arrest on furnishing of personal bond and surety bond in the sum of Rs. 30,000/-, subject further following conditions.

i) That he will appear before 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 contact or threaten the witness or tampering with evidence.

13. 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.

14. **With these observations present anticipatory bail application is disposed of. Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Further copy of this order be sent to IO and SHO concerned through electronic mode.**

15. The observations made in the present anticipatory bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.

**NAVEEN
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**(NAVEEN KUMAR KASHYAP)
ASJ-04/Central/THC
26.11.2020**

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

BAIL APPLICATION No.:1572/2020

State v. Sumit Kumar

FIR No.: 188/2020
PS: Rajinder Nagar
U/S: 420,468,471 IPC

26.11.2020

This court is also discharging Bail Roster Duty.

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

Arguments already heard.

Today, case was fixed for orders.

1. Vide this order anticipatory bail application u/s 438 Cr.P.C. filed by applicant Sumit, dated 19.10.2020 is disposed of.
2. In nutshell, it is argued on behalf of the applicants/accused that the complainant was working in March 2015 at a salary of Rs. 9,000/- per month as Sales Executive with the complainant company. That his job profile was to provide financial assistance to customer by collecting necessary documents and filling automobile loan application. That he has nothing to do with co-accused Faizan Khan and he was just discharging his office duty. That such documents were handed over to another department. That he was never contacted by police so far and all of a sudden now police is approaching him and he apprehend his arrest without any legal basis in the present case.
3. On the other hand, in the status report/reply filed by Insp. Parveen PS Rajinder Nagar, it is stated that during investigation, it is

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revealed that total 12 auto loans were availed on forged documents and all such documents were forwarded by present accused/applicant. The bank statement attached with the loan application was found forged and even the persons on whose name such vehicle loan were disbursed were found forged and they never availed any such loan. Even the photograph of customer was found fake and even address of some of the customer were found incorrect. Further, details of guarantor was found forged. It is further stated that despite efforts made, such 12 vehicles were not got recovered. It is further stated that only such accused/applicant had physical access to customers applying for loan. It is further stated that accused forwarded not one or two but such 12 applications. It is further stated that custodial interrogation of the accused required for recovery of 12 vehicles and tracing other accused persons involved in the conspiracy.

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

5. 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.

6. 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.”

7. 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."

8. 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

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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.

9. 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.....”

10. 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;

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(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.

11. Before proceeding further on merit in the present bail application, it may be noted that police officials who appeared before this court i.e. SI Mahipal contradicted their own stand taken in the reply filed, first they wanted custodial interrogation of the accused but for the reasons best known to such police official SI Mahipal and it is stated by him that such custodial interrogation is not required despite the fact that none of the vehicle in question got recovered nor the conspiracy in question solved. As such, in any case if the custodial interrogation of the present accused is not required, then it is further not clear whether such police official even complied with the directions of Hon'ble Supreme Court in the case of Arnesh Kumar or not and made relevant entry in their case diary that is paginated as per rules and mentioned in the Cr.P.C. As such, prima facie conduct of such police official is not above board.

Having noted so, as far as present application of the accused is concerned, there are allegations of forgery and cheating as well as conspiracy. It further appears that in a systematic and repeated manner the complainant company is cheated of its vehicles/property. Same is not possible without involvement of some employee or the other of the complainant company, in the facts and circumstances of the present case.

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As such, having regard to the nature of offence, role of the accused in the present complainant company, this court is not inclined to grant the relief sought in the present application. **With these observations, present anticipatory bail application is dismissed.**

12. **Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Further copy of this order be sent to IO and SHO concerned through electronic mode.**

13. The observations made in the present anticipatory bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.

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(NAVEEN KUMAR KASHYAP)
ASJ-04/Central/THC
26.11.2020

Bail Application.:1978/2020

Bail Application.:1980/2020

**State v. Arpit Goel
State v. Jaikant Parashar**

**FIR no.: 276/2020
PS: Kamla Market**

26.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Sh. Surender Kumar Sharma, Ld. Counsel for applicant through VC.
Ld. Counsel for complainant through VC.
IO also present through VC.

Arguments heard on these two separate application u/s 438 Cr.P.C. filed by applicant Jai Kant Parashar and Arpit Goel filed through Ld. Counsel.

It is pointed out during course of argument by learned Addl. PP for the state that section involved as per FIR is only section 509 IPC r/w 34 IPC, which is bailable in nature. As such, there is no occasion of arrest in the present case. As such, no ground to seek relief u/s 438 IPC is made out at all.

Further, it is stated by the IO that only the mobile number of the accused were available and as such a call was made to them regarding investigation of present case, and at present having regard to the nature of offence, there is no apprehension of arrest.

Still it is argued by learned counsel for applicant/accused that they had apprehension of arrest. Therefore, present application is moved.

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

It is mentioned in such application by learned counsel for accused/applicants that offence involved is section 509/34 IPC. Thus, being a learned counsel, the counsel for accused must be knowing if not his clients, that such offences

areailable in nature. Still instead of guiding them to appear before the IO/SHO concerned, the present application for anticipatory bail is preferred in aailable offence matters.

Further, procedure adopted by the IO is also not satisfactory. IO is supposed to act professionally and not casually. She is supposed to act in a transparent manner with record of proceedings available in writing including about the intimation to the accused to join investigation. Even if it is presumed that action on the part of IO is bonafide, it would have been better and always open to her to intimate the accused to join investigation by sending the message in writing through SMS or other electronic mode so that there is proof thereof on record. Otherwise, allegations against the IO/SHO are bound to crop up, as alleged in the present case by the learned counsel for the accused that they even not aware for what investigation they are being called. In any case, IO is supposed to send the notice under section 160 Cr.P.C. or 41A Cr.P.C. as per the procedure prescribed in Cr.P.C. and it cannot experiment with oral/telephonic mode which is not prescribed in Cr.P.C. **Such IO is warned to be careful in future.**

Having noted so, as offence alleged in the present case, to the knowledge of applicants, isailable in nature, there cannot be any legally sustainable apprehension of arrest in the present matter at present. **With these observations present applications are dismissed.**

Copy of this order be sent to IO/SHO concerned through electronic mode. Copy of this order be sent to learned counsel for applicants through electronic mode.

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Additional Sessions Judge-04/Central
26.11.2020

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Bail Application.:1613/2020

State v. Md. Shamshad Qureshi

FIR no.: 161/2020

PS: I.P. Estate

26.11.2020

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

Sh. M.M. Khan, Ld. Counsel for applicant through VC.

None for complainant.

IO SI Pratap Singh also present also present through VC.

Further, status report filed regarding jewellery item of complainant. Copy of the same supplied to accused side.

Put up for appearance of complainant side, arguments and orders on these bail applications for 16.12.2020.

Interim protection, if any to continue in terms of previous order.

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**(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
26.11.2020**

At this stage,

Ld. Counsel for complainant with complainant through VC appeared .
He is apprised of the order passed in the morning .

**NAVEEN KUMAR
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**(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
26.11.2020**

Bail Application.:1616/2020

State v. Nishad Begum

FIR no.: 161/2020

PS: I.P. Estate

26.11.2020

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

Sh. M.M. Khan, Ld. Counsel for applicant through VC.

None for complainant.

IO SI Pratap Singh also present also present through VC.

Further, status report filed regarding jewellery item of complainant. Copy of the same supplied to accused side.

Put up for appearance of complainant side, arguments and orders on these bail applications for 16.12.2020.

Interim protection, if any to continue in terms of previous order.

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(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
26.11.2020

At this stage,

Ld. Counsel for complainant with complainant through VC appeared .
He is apprised of the order passed in the morning .

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Additional Sessions Judge-04/Central
26.11.2020

Bail Application.:1618/2020

State v. Sajid
FIR no.: 161/2020
PS: I.P. Estate

26.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Sh. M.M. Khan, Ld. Counsel for applicant through VC.
None for complainant.
IO SI Pratap Singh also present also present through VC.

Further, status report filed regarding jewellery item of complainant. Copy of the same supplied to accused side.

Put up for appearance of complainant side, arguments and orders on these bail applications for 16.12.2020.

Interim protection, if any to continue in terms of previous order.

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(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
26.11.2020

At this stage,

Ld. Counsel for complainant with complainant through VC appeared .
He is apprised of the order passed in the morning .

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Additional Sessions Judge-04/Central
26.11.2020

Bail Application.:1835/2020

**State v. Pankaj Nagar
FIR no.: 289/2020
PS: Prasad Nagar**

26.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
None for applicant.
IO SI Ram Avtar PS Prasad Nagar through VC.

Put up for appearance of Ld. Counsel for applicant, arguments and appropriate orders for 16.12.2020.

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Additional Sessions Judge-04/Central
26.11.2020**

Bail Application.: 798/2020

State v. Ritesh Kumar

FIR no.: 103/2019

PS: Hazrat Nizamuddin Railway Station

U/s: 306 IPC

26.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Sh. Vikas Walia, Ld. Counsel for applicant through VC.
Sh. Pankaj Tripathi, Ld. Counsel for complainant through VC.

Arguments in detail heard from both sides on this present anticipatory bail application.

Put up for orders/clarifications, if any on 03.12.2020.

Further, IO is directed to appear through VC with case file. Further, both sides counsels are also at liberty to appear through VC or in person on next date of hearing.

Interim protection, if any to continue in terms of previous order till next date only.

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**(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
26.11.2020**

Bail Application.:1319/2020

**State v. Varun Aggarwal
FIR no.: 220/2020**

26.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
None for applicant/accused today.
IO Pooja Chaudhary present through VC.
Sh. Ravinder Saini, Ld. Counsel for complainant through VC.

On the last date of hearing, none was present on behalf of accused/applicant.

Heard.

Even on the last date of hearing, none was present on behalf of accused. In these circumstances, interim protection is vacated particularly in view of further submissions made by IO today.

Put up for appearance of learned counsel for applicant, further arguments and orders on the present application on 17.12.02020.

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Additional Sessions Judge-04/Central
26.11.2020**

Bail Application.:1665/2020

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

26.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Sh. R.R. Dua, Ld. Counsel for applicant.
Arguments in detail heard.

During course of arguments, it is pointed out by Ld. Addl. PP for the state that it appears that case is already committed and pending trial before Ld. ASJ-03, Central District. It further appears that present accused is arrested and later on moved present bail application. Under these circumstances, when main case is already committed before Ld. ASJ-03, Central District, put up this matter before **Ld. Principal District & Sessions Judge (HQ) for further directions for tomorrow i.e. 27.11.2020 at 11am for transfer/further directions.**

Ahlmad /filing counter staff is directed to do needful accordingly.

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**(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
26.11.2020**

Bail Application.:1957/2020

**State v. Rahul @ Dadu
FIR no.: 425/2019
PS: Karol Bagh**

26.11.2020

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

Today, case was fixed for orders/clarifications.

Certain clarifications required.

Put up for arguments, clarifications and appropriate orders including regarding role of present accused in the present case and bail granted by Hon'ble High Court to co-accused, if any in the present case.

Put up on 04.12.2020.

**NAVEEN KUMAR
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**(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
26.11.2020**

Bail Application.

State v. Himanshu Chahal
FIR no.: 193/2020
PS: Prasad Nagar

26.11.2020

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

Ld. Addl. PP for the state has moved the present application but none for accused/applicant is present.

Arguments in detail heard from Ld. Addl. PP for the state.

Matter is passed over for appearance of accused.

NAVEEN KUMAR
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(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
26.11.2020

At 2.50 pm

None appeared on behalf of accused.

Still in the interest of justice, one more opportunity is granted to Ld. Counsel for accused to appear and address arguments, if any.

Put up for appearance of learned counsel for accused, arguments from his side and appropriate order for **28.11.2020**.

NAVEEN KUMAR
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(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
26.11.2020

Bail Matters No.: 1979/2020
State Vs Tarjit Singh & Anr
FIR No.:206/2020
PS:Rajinder Nagar

26/11/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.
Ms. Geeta Luthra, learned Senior counsel alongwith Mr. Ujjwal Jain, learned counsel for the applicants.

This is joint anticipatory bail application filed on behalf of applicants Tarjit Singh Gambhir and Ms. Kamaljit Gambhir.

Reply filed by the IO. Copy already supplied.

Part arguments heard in detail.

Before proceedings further, let notice of the present application be issued to complainant through IO for the next date of hearing. Complainant can appear through VC on the next date of hearing. In the meanwhile, IO is directed not to take any coercive action against both the applicants provided they will cooperate with the investigation and join the same as and when directed by the IO / SHO concerned. Further IO is directed to appear in person through VC with case file on the next date of hearing including regarding section 109 IPC.

Put up for further arguments for 16/12/2020.

**NAVEEN
KUMAR
KASHYAP**

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NAVEEN KUMAR KASHYAP
Date: 2020.11.26 20:21:34
+05'30'

(Naveen Kumar Kashyap)
ASJ-04/Central/26.11.2020

Bail Matters No.: 1981/2020
State Vs Parvinder Singh
FIR No.:286/2020
PS: Prashad Nagar

26/11/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.
Mr. Neeraj Arora, learned counsel for applicant through VC.

Arguments in detail heard from the applicant side.

At request, put up for further arguments and appropriate orders for **27/11/2020**.

NAVEEN KUMAR KASHYAP
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Date: 2020.11.26 20:21:58 +05'30'
(Naveen Kumar Kashyap)
ASJ-04/Central/26.11.2020

Bail Matters No.:
State Vs Shailender Prasad
FIR No.: 235/2020
PS: Kamla Market

26/11/2020

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

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

28/11/2020.

NAVEEN KUMAR
KASHYAP
(Naveen Kumar Kashyap)
ASJ-04/Central/26.11.2020

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Date: 2020.11.26 20:22:24 +05'30'

Bail Matters No.: 1983/2020
State Vs Deepak @ Jhanji
FIR No.: 21714/2020
PS:Darya Ganj

26/11/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.
Mr. Rakesh Rajmurti, learned counsel for the applicant through VC.

Arguments in detail heard.

IO / SHO is directed to file further reply regarding conviction of present accused in another case so far.

Put up for **09/12/2020**.

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NAVEEN KUMAR
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Date: 2020.11.26
20:22:44 +05'30'

(Naveen Kumar Kashyap)
ASJ-04/Central/26.11.2020

BAIL APPLICATION

**_ State v. Raj Bahadur
(applicant Sanjay @ Dharamvir)
FIR No. :130/2014
PS: Kamla Market**

26.11.2020

Undersigned is also discharging bail roster duty.

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

**Put up for appearance of learned counsel for accused Sanjay @
Dharamvir, further arguments and appropriate order in terms of previous effective
order for 03.12.2020.**

NAVEEN KUMAR KASHYAP
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NAVEEN KUMAR KASHYAP
Date: 2020.11.26 18:28:08
+05'30'

(Naveen Kumar Kashyap)

ASJ-04/Central/26.11.2020

BAIL APPLICATION

**_State v. Raj Bahadur
(applicant Yadvender)
FIR No. :130/2014
PS: Kamla Market**

26.11.2020

Undersigned is also discharging bail roster duty.

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

**Put up for appearance of learned counsel for accused Sanjay @
Dharamvir, further arguments and appropriate order in terms of previous effective
order for 03.12.2020.**

**NAVEEN
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NAVEEN KUMAR
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Date: 2020.11.26
18:29:02 +05'30'

(Naveen Kumar Kashyap)

ASJ-04/Central/26.11.2020

State Vs Vinod @ Dada
(Application for release of money)
FIR No 39/2019
P. S. Lahori Gate

26.11.2020

This court is also discharging bail roster duty.

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

None for the applicant Shyam Sunder.

Today case was fixed for orders on this application for release of currency / case property of the present case to the complainant.

In view of the judgments of the Hon'ble Supreme Courts and Hon'ble High Court before proceedings further, let notice of this application be issued to all the accused. Steps be taken by the complainant / applicant within 2 days.

Put up for the date already fixed i.e. 14/12/2020 for further proceedings / arguments and orders.

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NAVEEN KUMAR
KASHYAP
Date: 2020.11.26
20:23:26 +05'30'

(Naveen Kumar Kashyap)
ASJ-04/Central/26.11.2020

State Vs Shankar Kumar Jha
(Bail Application of Varun @ Tarun)
FIR No 14/2019
P. S. Subzi Mandi

26.11.2020

This court is also discharging bail roster duty.

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

Mr. Shailendra Mishra, learned counsel for applicant through VC.

This is fresh application seeking bail filed on behalf of applicant.

Issue notice of the same to the IO to file reply by the next date of hearing.

Put up for reply, arguments and appropriate orders for **15/12/2020**.

NAVEEN
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(Naveen Kumar Kashyap)
ASJ-04/Central/26.11.2020

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KASHYAP
Date: 2020.11.26
20:23:52 +05'30'

**State Vs Arsalan Ali & others
(Application of Govind)
FIR No. 182/2017
P. S. Kamla Market**

26.11.2020

This court is also discharging bail roster duty.

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

Mr. Amjad Khan, learned counsel for the applicant through VC.

Accused is stated to be on interim bail.

This is fresh application seeking bail filed on behalf of applicant.

Issue notice of the same to the IO to file reply by the next date of hearing.

Put up for reply, arguments and appropriate orders for **16/12/2020**.

**NAVEEN
KUMAR
KASHYAP**

**(Naveen Kumar Kashyap)
ASJ-04/Central/26.11.2020**

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Date: 2020.11.26 20:24:12
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State Vs Ashu @ Atta
(Application of Amar @ Kanha)
FIR No 210/2018
P. S. Prasad Nagar

26.11.2020

This court is also discharging bail roster duty.

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

Mr. Vineet Jain, learned counsel for the applicant through VC.

This is fresh application seeking interim bail dated 24/11/2020 filed on behalf of applicant.

Issue notice of the same to the IO to file reply by the next date of hearing including regarding medical papers / conditions of the daughter of the accused.

Put up for reply, arguments and appropriate orders for **01/12/2020**.

NAVEEN KUMAR
KASHYAP
(Naveen Kumar Kashyap)
ASJ-04/Central/26.11.2020

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Date: 2020.11.26 20:24:33
+05'30'

Crl. Rev.: 717/2019
Soni Trader v. Sandeep Manchanda & Ors.

26.11.2020

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

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

Undersigned is also discharging work of Bail Roster duty.

Present: None.

Put up for appearance of parties and arguments in terms of previous order for 03.04.2020.

**NAVEEN
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Date: 2020.11.26
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(Naveen Kumar Kashyap)
ASJ-04/Central/26.11.2020

CrI. Rev.: 48/2020
Ahsan v. State

26.11.2020

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

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

Undersigned is also discharging work of Bail Roster duty.

Present: None.

Put up for appearance of parties and arguments in terms of previous order for 03.04.2020.

**NAVEEN
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KASHYAP**

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Date: 2020.11.26
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(Naveen Kumar Kashyap)
ASJ-04/Central/26.11.2020

Crl. Rev.: 678/2019
Gurvinder Singh v. The State

26.11.2020

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

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

Undersigned is also discharging work of Bail Roster duty.

Present: Sh. Harsh Gupta, Ld. Counsel for Revisionist.
Sh. Rishabh Jain, Ld. Counsel for Respdt. no.2.

Vide separate judgment pronounced in open court through VC, present revision petition of revisionist is allowed.

File be consigned to record room after due compliance.

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Date: 2020.11.26
18:30:28 +05'30'

(Naveen Kumar Kashyap)
ASJ-04/Central/26.11.2020

Crl. Rev.: 668/2019
Gurpreet Singh & Ors. v. The State

26.11.2020

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

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

Undersigned is also discharging work of Bail Roster duty.

Present: Sh. Rishabh Jain, Ld. Counsel for Respdt. no.2.

Vide separate judgment pronounced in open court through VC, present revision petition of revisionist is dismissed.

File be consigned to record room after due compliance.

TCR be returned back as per rules.

**NAVEEN
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(Naveen Kumar Kashyap)
ASJ-04/Central/26.11.2020

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Date: 2020.11.26
18:30:46 +05'30'

SC: 28817/2016
State v. Haider Raja
FIR No.:166/2016
PS: Subzi Mandi

26.11.2020

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

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

Undersigned is also discharging work of Bail Roster duty.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
Mr. S.N. Shukla, learned LAC for accused No.3 Manish.

It is claimed that all the three accused are on bail.

Put up for PE in terms of previous order for 03/04/2021. Issue notice to two of the material witnesses for the next date of hearing.

**NAVEEN
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(Naveen Kumar Kashyap)
ASJ-04/Central/26.11.2020

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Date: 2020.11.26
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SC: 29058/2016
State v. Anil Kumar
FIR No.:397/2016
PS: Karol Bagh

26.11.2020

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

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

Undersigned is also discharging work of Bail Roster duty.

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

**Put up for appearance of accused persons and for PE in terms of previous order for
03/04/2021.**

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

**NAVEEN
KUMAR
KASHYAP**

(Naveen Kumar Kashyap)
ASJ-04/Central/26.11.2020

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Date: 2020.11.26 20:26:04
+05'30'

SC: 599/2019
State v. Karimulla @ Iqbal
FIR No.:68/2019
PS: Kamla Market

26.11.2020

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

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

Undersigned is also discharging work of Bail Roster duty.

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

**Put up for appearance of accused person and for PE in terms of previous order for
03/04/2021.**

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

NAVEEN KUMAR KASHYAP
(Naveen Kumar Kashyap)
ASJ-04/Central/26.11.2020

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Date: 2020.11.26 20:26:29
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At this stage, accused Karimulla @ Iqbal produced from Mandoli Jail. He is apprised with the order passed in the morning. Put up on the date already fixed.

NAVEEN KUMAR KASHYAP
(Naveen Kumar Kashyap)
ASJ-04/Central/26.11.2020

Digitally signed by NAVEEN KUMAR KASHYAP
Date: 2020.11.26 20:26:44
+05'30'

CR No. 83/2019 & 84/2019
Hariprasad Gopi Krishna Jewellers P. Ltd. Vs Sajjan Kapoor

26.11.2020

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

In view of the above-mentioned orders/directions, file is taken up through Webex.
Undersigned is also discharging work of Bail Roster duty.

Present: Learned counsel for the appellant through VC.
None for respondent.

In view of the circular No. 1167/M&C/DHC/2020 dated 17/11/2020 & Endst. No. 15386-15418, dated 17/11/2020 of the Registrar General, Hon'ble High Court of Delhi, no adverse order is passed in the present case.

Issue Court notice to the respondent through electronic mode as well as otherwise as per latest instructions for the next date of hearing.

Put up for arguments in terms of previous order for 06/04/2021.

**NAVEEN
KUMAR
KASHYAP**
(Naveen Kumar Kashyap)
ASJ-04/Central/26.11.2020

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NAVEEN KUMAR
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Date: 2020.11.26
20:27:05 +05'30'

CA No.: 35/2019
Neeraj Vs State

26.11.2020

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

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

Undersigned is also discharging work of Bail Roster duty.

Present: None for appellant.

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

Put up for appearance of appellant and for arguments in terms of previous order for

03/04/2021.

NAVEEN
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by NAVEEN
KUMAR KASHYAP
Date: 2020.11.26
20:27:25 +05'30'

(Naveen Kumar Kashyap)
ASJ-04/Central/26.11.2020