

18.12.2020

*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.

**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

Present: None for revisionist.

Mr. Gyan Prakash, learned Substitute Addl. PP for the State through VC.

As per report, respondent no.2 is served on 01/12/2020.

Put up for arguments and appropriate orders for **19/01/2021**.

  
(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020

**CA: 54840/2016, CA:54841/2016, CA:54842/2016  
Bhupinder Singh Sawhney v. State & Anr.**

**18.12.2020**

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

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

Present: Sh. Dushyant Kumar, Ld. Counsel for Appellant no.1 through VC  
Sh. L.M. Grover, Ld. Counsel for Appellant no.2 through VC.  
Mr.Gyan Prakash, Substitute learned Addl.PP for  
State/Respondent no.1 through VC.  
Sh. Sanjeev Goel, Ld. Counsel for Respondent no.2 through VC.

Part arguments in detail heard through VC from Appellant no.2.

It is submitted by counsel for appellant no.1 that he will address arguments after arguments of appellnat no.2 is concluded.

**At request, put up for further arguments on  
14.01.2021.**

  
**(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020**



**Crl. Rev.: 323/2019**  
**Deepak Kr. Mangotra v. Shameem Ahmed**

**18.12.2020**

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

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through VC.  
Sh. Jasmeet Joli, Ld. Counsel for revisionist.

Issue fresh notice to respondent in terms of previous order.

Further, TCR be also summoned for next date of hearing.

**Put up for 08.02.2021.**

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**Crl. Rev.: 322/2019**  
**G.K. Sarkar v. Shameem Ahmed**

**18.12.2020**

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

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through VC.  
Sh. Jasmeet Joli, Ld. Counsel for revisionist.

Issue fresh notice to respondent in terms of previous order.

Further, TCR be also summoned for next date of hearing.

**Put up for 08.02.2021.**

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**SC:287/2019**  
**FIR No: 478/2018**  
**PS: Burari**  
**State v. Sanjay Tiwari**

**18.12.2020**

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

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through VC.

Accused no.1 Sanjay Tiwari is not present.

Rest of three Accused are on bail with counsel Sh. B.S. Tiwari.

DW not present.

**Put up for further appropriate orders for 06.01.2021.**

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**SC:266/2018**  
**FIR No: 996/2014**  
**PS: Sarai Rohilla**  
**State v. Deepak @ Golu Mota**

**18.12.2020**

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

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through VC.  
None for accused.

**Put up for PE in terms of previous order for 28.04.2021.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**



**CA No. 03/2020 & 04/2020**  
**Ajanta Raj Protein Vs Himanshu Food Pvt. Ltd.**

**18.12.2020**

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

**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

Present: Mr. V.N. Chaturvedi, learned counsel for the appellant.

Mr. Madhur Arora, learned counsel for respondent alongwith Mr. Shalab Gupta.

Due to other cases pending, no time is left.

Put up for further arguments through VC / physical mode for **15/01/2021**.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**



**State v Mohd. Kadir**  
**(Application for modification of interim bail conditions)**  
**FIR No: 364/2014**  
**PS: Sadar Bazar**

**18.12.2020**

**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

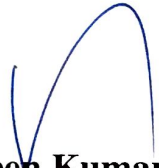
Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State through VC.  
Mr. S.N. Shukla, learned LAC counsel for applicant through VC.

An application dated 10/12/2020 for modification of bail bond conditions filed.

Heard.

In view of the submissions made, condition No. (vii) & (viii) mentioned in para 9 relating to location and video call are modified.

Now applicant is directed to make normal audio call from his mobile phone No. 7781901788. Other condition remain the same. With these observations application is disposed off.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**CA No. 159/2019**  
**Shri Praveen Grover Vs Smt. Seema Grover**

**18.12.2020**

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

**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

Present: Appellant with counsel through VC.

Respondent in person.

Learned counsel for respondent is not available.

Arguments already addressed in this case. Adjournment is sought by the respondent's side.

At request, put up for further arguments, if any, / judgment for **27/01/2021**.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

SC:735/2019  
FIR No: 39/2019  
PS: Lahori Gate  
State v. Vinod @ Dada

18.12.2020

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

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through VC.  
Accused no.1 and 2 in person on regular bail with counsel Sh. Harsh Hardy.  
Accused Ashish is in JC.

**Put up for arguments on charge in terms of previous order for 27.04.2021.**

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

(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020

**CR No.:291/2020**

**Deputy Commissioner of Income Tax Vs Ashok Jaipuria**

**18.12.2020**

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

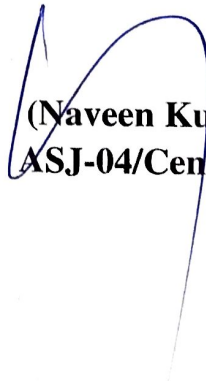
**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

Present: Learned counsel for the revisionist.

Arguments heard.

Issue notice of the present revision petition to respondents through physical as well as electronic modes for the next date of hearing.

Put up for **27/04/2021**.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

CR No. 253/2020

**Ram Kawar Garg Vs M/s SMC Global Securities Ltd.**

**18.12.2020**

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

**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

Present: Mr. Ram Kawar Garg revisionist in person.

It is stated that he is illegible for LAC counsel. It is further stated that he is unable to engage private counsel. As such, he wants to address his arguments in person. It is further stated that they have come in this revision against the summoning order.

Part arguments heard.

It is stated that such summoning order is against the law. There is no 'delivery'.

Trial Court Record be summoned for the next date of hearing. Issue notice to State / respondent. It is prayed that in the meanwhile proceedings before the Learned Trial Court be stayed. This Court has again gone through the record.

In view of the same, this Court is not inclined to stay the learned Trial Court proceedings. Put up for further arguments for **26/04/2021**.

  
(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020



**CR No. 41/2020**  
**Kiran Singh Sainger Vs Sadaf & Others**

**18.12.2020**

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

**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

Present: None.

Steps not taken. Previous order be complied afresh by the next date of hearing.

**Put up for 26/04/2021.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**SC:27980/2016**  
**FIR No: 141/2015**  
**PS: Darya Ganj**  
**State v. Pooja Gupta**

**18.12.2020**

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

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

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through VC.  
Accused Pooja Gupta is on interim bail through VC with LAC  
Sh. S.N. Shukla.

**Put up for purpose fixed/PE on 27.04.2021.**

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

SC:28148/2016  
FIR No: 97/2012  
PS: Prashad Nagar  
State v. Ram Gopal Rai

18.12.2020

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

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through VC.  
Sh. Aparbal Singh, Id. Counsel for accused no. 2 Sanjay Yadav.  
None for accused no.1 Ram Gopal Rai.  
Even on the last date of hearing, nobody was present on behalf of such accused.

Written arguments already filed.

Further, as per record, arguments already over on behalf of accused Seema Devi also.

Issue court notice to accused no.1 Ram Gopal Rai as well as to his counsel for next date of hearing.

**Put up on 01.03.2021 for final arguments.**

  
(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020

SC:27546/2016  
FIR No: 160/2011  
PS: Lahori Gate  
State v. Sunil Kumar etc.

**18.12.2020**

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

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through VC.  
Accused Sanjeev and Sunil produced from Jail no.1 through VC

**Put up for final arguments in terms of previous order for 03.02.2021.**

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

18.12.2020

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

**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

Present: None for appellant.

Mr. Gyan Prakash, learned Substitute Addl. PP for the State through VC.

Put up for appearance of appellant and for further appropriate orders for  
28/04/2021.

  
(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020



**SC:28889/2016**  
**FIR No: 283/2016**  
**PS: Prashad Nagar**  
**State v. Jaswant**

**18.12.2020**

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

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through VC.  
Both Accused on bail.

**Put up for PE in terms of previous order for 27.04.2021.**

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

SC:27341/2016  
FIR No:70/2008  
PS: Kashmere Gate  
State v. Gabbar Singh @ Gurcharan

**18.12.2020**

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

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through VC.  
Accused no.1 Gabbar Singh produced from JC through VC.  
His counsel is not available.  
It is stated that accused Sumit Narula is in JC.  
Accused no.3 Sushil and accused no.4 Dheeraj in person and stated to be on regular bail.

**In the interest of justice, put up for arguments in terms of previous order for 28.01.2021.**

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**Bail Matter No.: 1878/2020**  
**FIR No: 333/2020**  
**PS: Sarai Rohilla**  
**State v Chander**

**18.12.2020**

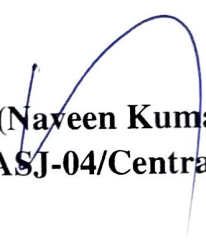
**Today this court is holding physically hearing as per directions.**

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State through VC.

None for the applicant.

Put up for appearance of counsel for the applicant and for purpose fixed for

**16/01/2021.**

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

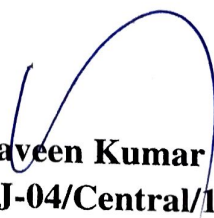
**Bail Matter Nos.: 700, 703, 704 & 705 /2020**  
**FIR No: 123/2020**  
**PS: Hauz Hazi**  
**State v Vijeta Saraswat, Smt. Shakti Sharma,**  
**Sunil Saraswat & Surya Kant Sharma**

**18.12.2020**

**Today this court is holding physically hearing as per directions.**  
Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State through VC.  
IO ASI Narender PS Hauz Qazi in person.  
Ms. Isha Siddiqui, learned counsel for complainant in person.  
Complainant is present through VC.

It is stated by the IO that as per investigation so far the allegations u/s 354 IPC were not found to be correct. But at the same time no action is proposed against the complainant also for making such false allegations.

Put up for orders on such bail application / clarification, if any, for **15/01/2021**.  
Interim order if any to continue till the next date of hearing.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**BAIL APPLICATION NO.: 2184/2020**

**State v. Rahul  
FIR No.: 218/2020  
PS: Rajinder Nagar  
U/s:380 IPC**

**18.12.2020**

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through VC.  
Sh. Pradeep Kumar, Ld. Counsel for the applicant.

Fresh bail application filed . Reply also filed. Copy of the same supplied.

Put up for further arguments and appropriate orders on 18.01.2021.

At this stage, Ld. Counsel for applicant wants to withdraw the present bail application. Heard. Allowed. Same is dismissed as withdrawn. Earlier date stands cancelled.

  
**(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020**



**BAIL APPLICATION NO.: 2186/2020**

**State v. Mohd. Umar**

**FIR No.: 210/2020**

**PS: Sarai Rohilla**

**18.12.2020**

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through VC.  
Sh. Junaid Alam, Ld. Counsel for the applicant.

Reply filed. Copy be supplied during course of he day.

**Put up for arguments and appropriate order on  
19.01.2021.**

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**BAIL APPLICATION NO.: 2185/2020**

**State v. Sukhbir Singh @ Sukka**

**FIR No.: 191/2020**

**PS: Darya Ganj**

**U/s:419,465 IPC**

**18.12.2020**

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


Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through VC.  
LAC for the applicant through VC.  
HC Surender in person.

Reply filed on behalf of main IO.

**Put up for arguments and appropriate orders for**

**18.01.2021.**

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**



**Bail Matter No.: 2065 & 2066/2020**

**FIR No: 238/2006**

**PS: Rajinder Nagar**

**State v Vishal Marwah**

**18.12.2020**

**Today this court is holding physically hearing as per directions.**

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State through VC.

Learned counsel for the applicant / accused.

Arguments heard in detail.

Put up for orders for tomorrow i.e. **19/12/2020**.



**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**BAIL APPLICATION NO.: 33/2020**

**State v. Dhirender Kr. Yadav**  
**FIR No.: 397/2018**  
**PS: Prasad Nagar**

**18.12.2020**

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through VC.  
Sh. Sanjeev Nasiar, Ld. Counsel for the applicant through VC.

At request, in view of the matter pending before Hon'ble Supreme Court regarding interim bail aspect, put up for arguments on main bail application on 27.01.2021.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**Bail Matter No.: 2181/2020**

**FIR No: 17/2019**

**PS: Lahori Gate**

**State v Arif Khan**

**18.12.2020**

**Today this court is holding physically hearing as per directions.**

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State through VC.

Mr. R.N. Sharma, learned counsel for the applicant.

IO is also present.

Reply filed by the IO. Copy supplied.

Chargesheet is required as it is claimed by the counsel for the accused that there is no incriminating evidence. Further, IO is not given any satisfactory explanation regarding role of the present accused.

As such, Trial Court Record be called for the next date of hearing. Steps be taken within 2 days. Put up for **16/01/2021**.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**M.Crl> No. 216/2020**  
**FIR No: 193/2012**  
**PS: Sarai Rohilla**  
**State v Amit Nath Saini**

**18.12.2020**

**Today this court is holding physically hearing as per directions.**

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State through VC.

Learned counsel for the applicant.

Trial Court record not received.

Issue fresh notice to concerned Record Room for sending such Trial Court record.

Ahlmad is directed to do the needful within 3 days.

Put up for **18/01/2021**.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**





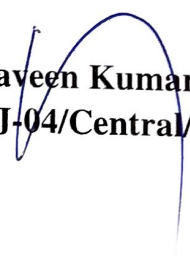
**Bail Matter No.: 1593/2020**  
**FIR No: 271/2020**  
**PS: Prasad Nagar**  
**State v Naveen Giri**

**18.12.2020**

**Today this court is holding physically hearing as per directions.**  
Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State through VC.  
Mr. Roshan Lal, learned counsel for the complainant alongwith complainant in person.

Issue notice to IO to file further status report regarding recovery of alleged articles.

Put up for **16/01/2021**. In the meanwhile, interim protection, if any, to continue till the next date of hearing.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**Bail Matter No.: 2127/2020**

**FIR No: 141/2018**

**PS: Karol Bagh**

**State v Neeraj Bhatia**

**18.12.2020**

**Today this court is holding physically hearing as per directions.**

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State through VC.

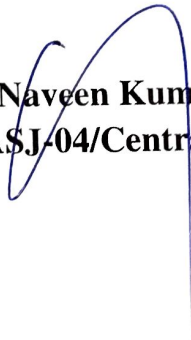
Learned counsel for the applicant.

IO Sri Narain in person.

It is stated that he is using the same system / laptop for the last 4-5 years on which the present reply is prepared including the additional reply.

Further arguments heard from accused side.

Put up for further arguments including from complainant side, if any, appropriate orders for **16/01/2021**. Interim order, if any, to continue till the next date of hearing only.

  
(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020

**Bail Matter No.: 2080/2020**  
**FIR No: 238/2006**  
**PS: Rajinder Nagar**  
**State v Vishal Marwah**

**18.12.2020**

**Today this court is holding physically hearing as per directions.**

Present:

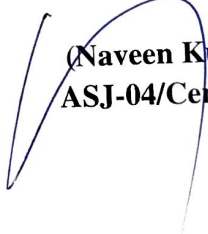
Mr. Gyan Prakash, learned Substitute Addl.PP for State through VC.

Learned counsel for the applicant.

It is stated by the counsel for the applicant that this application No. 2080/2020 is wrongly filed by him. As such, he wants to withdraw the same.

Heard.

In view of the submissions made, the present application is dismissed as withdrawn.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**Bail Matter No.: 2065 & 2066/2020**  
**FIR No: 238/2006**  
**PS: Rajinder Nagar**  
**State v Vishal Marwah**

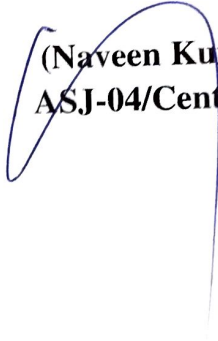
**18.12.2020**

**Today this court is holding physically hearing as per directions.**  
Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State through VC.

Learned counsel for the applicant / accused.

Arguments heard in detail.

Put up for orders for tomorrow i.e. **19/12/2020**.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**CA No. 181, 185, 186 & 187 / 2019**  
**Hitesh Kumar Aggarwal Vs State & Anr**

**18.12.2020**

**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

Present: None for appellants through VC or physically on this physical day hearing of this Court.

Mr. Gyan Prakash, learned Substitute Addl. PP for the State through VC.

Mr. Kunal Kalra, learned counsel for respondent no.2.

Such matter was kept on physical hearing day having regard to the issue involved. It is noted that vide order dated 22/02/2020 sentence passed by learned Trial Court was suspended subject to deposit of 20% of the fine / conviction amount. But now when the Court has again started functioning, such deposit is not made so far nor any explanation given for non deposit of the same.

As such, such suspension of sentence is revoked. Issue NBW against convict / appellant Hitesh Kumar Aggarwal. Steps be taken within 7 days.

Put up for report of NBWs, final arguments and appropriate orders for **06/03/2021.**

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**At 2:15 PM**

At this stage Mr. Vaibhav Sinha, learned counsel for appellants has appeared. He stated that he could not appear in morning. Further he stated that he is ready with the FD of Rs.40,000/-(each) drawn on Bank of Baroda and the same is placed on record. In view of

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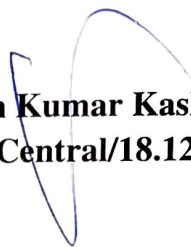
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*CA No. 181, 185, 186 & 187/ 2019  
Hitesh Kumar Aggarwal Vs State & Anr*

the same order passed in the morning is recalled. Sentence is suspended in terms of previous order. Further NBWs are recalled.

Put up for final arguments on the date already fixed i.e. 06/03/2021.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**



18.12.2020

**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

Present: None for appellant through VC or physically on this physical day hearing of this Court.

Mr. Gyan Prakash, learned Substitute Addl. PP for the State through VC.

Mr. Kunal Kalra, learned counsel for respondent no.2.

Such matter was kept on physical hearing day having regard to the issue involved. It is noted that vide order dated 22/02/2020 sentence passed by learned Trial Court was suspended subject to deposit of 20% of the fine / conviction amount. But now when the Court has again started functioning, such deposit is not made so far nor any explanation given for non deposit of the same.

As such, such suspension of sentence is revoked. Issue NBW against convict / appellant Hitesh Kumar Aggarwal. Steps be taken within 7 days.

Put up for report of NBWs, final arguments and appropriate orders for

06/03/2021.

(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020

At 2:15 PM

At this stage Mr. Vaibhav Sinha, learned counsel for appellant has appeared. He stated that he could not appear in morning. Further he stated that he is ready with the FD of Rs.26,000/- drawn on Bank of Baroda and the same is placed on record. In view of the

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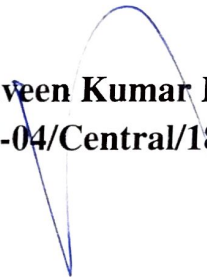
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*CA No. 180 / 2019*  
*Hitesh Kumar Aggarwal Vs State & Anr*

same order passed in the morning is recalled. Sentence is suspended in terms of previous order. Further NBWs are recalled.

Put up for final arguments on the date already fixed i.e. 06/03/2021.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**



18.12.2020

**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

Present: None for appellant through VC or physically on this physical day hearing of this Court.

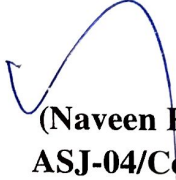
Mr. Gyan Prakash, learned Substitute Addl. PP for the State through VC.

Mr. Kunal Kalra, learned counsel for respondent no.2.

Such matter was kept on physical hearing day having regard to the issue involved. It is noted that vide order dated 22/02/2020 sentence passed by learned Trial Court was suspended subject to deposit of 20% of the fine / conviction amount. But now when the Court has again started functioning, such deposit is not made so far nor any explanation given for non deposit of the same.

As such, such suspension of sentence is revoked. Issue NBW against convict / appellant Hitesh Kumar Aggarwal. Steps be taken within 7 days.

Put up for report of NBWs, final arguments and appropriate orders for  
06/03/2021.

  
(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020

At 2:15 PM

At this stage Mr. Vaibhav Sinha, learned counsel for appellant has appeared. He stated that he could not appear in morning. Further he stated that he is ready with the FD of Rs.40,000/-(each) drawn on Bank of Baroda and the same is placed on record. In view of

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*CA No. 181, 185, 186 & 187/2019  
Hitesh Kumar Aggarwal Vs State & Anr*

the same order passed in the morning is recalled. Sentence is suspended in terms of previous order. Further NBWs are recalled.

Put up for final arguments on the date already fixed i.e. 06/03/2021.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

18.12.2020

**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

Present: None for appellant through VC or physically on this physical day hearing of this Court.


Mr. Gyan Prakash, learned Substitute Addl. PP for the State through VC.

Mr. Kunal Kalra, learned counsel for respondent no.2.

Such matter was kept on physical hearing day having regard to the issue involved. It is noted that vide order dated 22/02/2020 sentence passed by learned Trial Court was suspended subject to deposit of 20% of the fine / conviction amount. But now when the Court has again started functioning, such deposit is not made so far nor any explanation given for non deposit of the same.

As such, such suspension of sentence is revoked. Issue NBW against convict / appellant Hitesh Kumar Aggarwal. Steps be taken within 7 days.

Put up for report of NBWs, final arguments and appropriate orders for  
06/03/2021.

  
(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020

At 2:15 PM

At this stage Mr. Vaibhav Sinha, learned counsel for appellant has appeared. He stated that he could not appear in morning. Further he stated that he is ready with the FD of Rs.40,000/-(each) drawn on Bank of Baroda and the same is placed on record. In view of

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*CA No. 181, 185, 186 & 187/ 2019*  
*Hitesh Kumar Aggarwal Vs State & Anr*

the same order passed in the morning is recalled. Sentence is suspended in terms of previous order. Further NBWs are recalled.

Put up for final arguments on the date already fixed i.e. 06/03/2021.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**



**Nirmal Garg Vs M/s SMC Global Securities Ltd.**

**18.12.2020**

*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.

**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

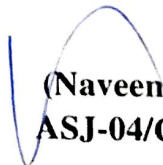
Present: Mr. Ram Kavar Garg husband of revisionist in person.

It is stated that he is not entitled for LAC counsel. It is further stated that he is unable to engage private counsel. As such, he wants to address his arguments in person. It is further stated that he has come in this revision against the summoning order.

Part arguments heard.

It is stated that such summoning order is against the law. There is no 'delivery'.

Trial Court Record be summoned for the next date of hearing. Issue notice to State / respondent. It is prayed that in the meanwhile proceedings before the Learned Trial Court be stayed. This Court has gone through the record, this Court is not inclined to stay the learned Trial Court proceedings. Put up for further arguments for **26/04/2021**.

  
(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020

**Bail Matter No.: 2106/2020**  
**FIR No: 210/2020**  
**PS: Sarai Rohilla**  
**State v Inam ur Rehman**

**18.12.2020**

**Today this court is holding physically hearing as per directions.**

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State through VC.  
Mr. Dharmender Kumar Mishra, learned counsel for the applicant.

This is physical hearing day of this Court and at request of learned counsel for applicant the matter was kept today for physical hearing.

It is already 1:25 PM. As per circular / instructions, limited physical time is available on such physical hearing day for the reasons mentioned in the circular itself.

As such, as already 15 minutes physical hearing time is given to the counsel for the applicant, it is not possible to give further time physically. He is at liberty to address arguments through VC mode tomorrow i.e. on 19/12/2020.

At this stage, it is stated by the counsel for applicant that he is not available tomorrow. As such, as per the convenience of counsel put up for **22/12/2020** through VC for further arguments.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**18.12.2020**

**Today this court is holding physically hearing as per directions.**

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State through VC.

Mr. Gurjeet Singh, learned counsel for applicants / accused.

SI Narender Singh from PS Lahori Gate.

1. It is stated by SI Narender Singh that “inquiry” of the present case is conducted by ASI K.P. Rana of PS Lahori Gate.

2. Heard. Admittedly, there is no FIR in this matter so far. Complaint in question was received on 16/11/2020. Even presuming the preliminary inquiry ground made out as it is an “extraordinary matter” still even period prescribed in case of 'Lalita Kumari' of 1-2 weeks for preliminary inquiry is already over. Despite, it appears that due to reason best known to ASI K.P. Rana, he neither waited for registration of FIR nor completed such preliminary inquiry within such 1-2 weeks. Not only that, without registration of FIR so far, such IO ASI K.P. Rana personally visited on 12/12/2020 at the shop of applicants i.e. Kartik Opticals, Fateh Puri Chandni Chowk, Delhi where he met with the uncle of applicant and told the uncle that he has come for 'inquiry' regarding the complaint received against the applicants, as claimed by learned counsel for applicants. Further, it is stated that such ASI K.P. Rana provided his mobile No. 9968278186 to such uncle and asked to tell applicants to visit Police Station and under fear such applicants, infact, visited PS on 14/12/2020 at around 4:00 PM and met such ASI K.P. Rana and such ASI K.P. Rana pressurized the applicants to settle the applicants with the complainant side. Yesterday against such ASI K.P. Rana visited the

*Contd...../-*

applicant's shop and inquired about why the applicants has not settled the matter so far. Such procedure adopted by such ASI K.P. Rana is not only without any legal basis but, in fact, in violation of scheme of Cr.PC relating to investigation, apart from violation of judgment of 'Lalita Kumari' of Hon'ble Supreme Court of India. As such, copy of this order be sent to DCP concerned for necessary action against such ASI K.P. Rana.

3. It may be further noted that because of such illegal / untenable practice adopted by police officials which are not supervised / controlled by SHO concerned, the same is, inter-alia, giving rise to such anticipatory bail applications. No coercive action be taken against applicants till next date of hearing only.

4. Put up for further arguments, appropriate orders / proceedings and appearance of such ASI K.P. Rana for **19/01/2021**. The Naib Court of this Court is directed to file report / receipt within one week about sending copy of this order to worthy DCP to this Court.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**CA: 365/2019**  
**Brijesh Goswami v. Amit Gupta**

**18.12.2020**

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

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

Present: Appellant in person with surety Ms. Neha Goswami.

Bail Bond filed u/s 437A Cr.P.C. It is stated that original RC is also submitted before learned Trial court and same is available with the TCR.

Bail bond accepted. Further, written arguments filed on behalf of Appellant.

**Put up for judgment/clarifications, if any on 11.01.2021.**

Appellant/ accused is directed to appear in person on next date of hearing at 2 pm at the time of pronouncement of judgment.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**



**Cri. Rev.: 140/2020, 141/2020,142/2020,143/2020 and 144/2020  
Deepak Talwar v. Income Tax Office**

**18.12.2020**

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

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

Present: Sh. Tanivr Ahmad Mir, Ld. Counsel for Revisionist alongwith Sh. Prabhav Ralli, through VC.  
Sh. Anuj Dhingra, Ld. Counsel for respondent/ ITO through VC.

Vide this order, the application u/s 5 of Limitation Act for condonation of delay in filing of present revision petition is disposed of.

In nutshell, it is argued on behalf of Revisionist/applicant that revisionist suffered as massive heart attach in the year 2016 and undergone a quadruple by-pass surgery and as such he has to go to Dubai upon medical advise in October, 2017. That there he suffered as injunction at the hand of competent jurisdiction and petitioner was barred from travelling to Home Country/India. Further, as such, such revisionist did not have the benefit to look at the complaint/document which was supplied to his counsel on 04.12.2017. It is further stated that thereafter he was arrested by ED on 31.01.2019 and was in JC and was not keeping well. That only in February, 2020 he was able to contemplate and give effective instructions regarding the present revision petition after going through the voluminous record filed by ITO running into thousands of pages. It is further argued that there is number of judgments which states that criminal matters in particular be heard on merit and technicalities should not come into the way, otherwise substantive right of the accused/revisionist will suffer. It is further argued that period of delay is matter of facts and circumstances in each matter for the purpose of condonation and there cannot be any mathematical formula for the same. It is further stated that even Ld. MM granted him exemption from time to time during trial in this matter.

On the other hand, it is argued on behalf of the respondent/ITO



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that present application is sheer abuse of process of court. There is a delay almost of two years from the date of summoning, in filing the present revision petition. It is further argued that in today's tech savvy world, even if such accused was not allowed to travel back to India still he could have instructed his counsel through electronic mode. It is further stated that in any case he was not physically confined in Dubai and was free to travel within that country and give instructions. It is further stated that in order to avoid process of law in India, he fled for Dubai and did not intentionally appeared before the court of law. That he cannot be allowed to take benefits of his own wrongs. That his counsel was supplied complaint and documents annexed herewith on 04.12.2017 and thereafter revisionist appeared time and again through counsel before trial court. As such, he is well aware about the summoning order passed against him. It is further argued that plea of by-pass surgery and staying away due to pollution is taken for the first time in the present application only that too without any supporting document. It is further argued that such revisionist/applicant was giving instructions to his client from abroad. Therefore, likewise the learned advocate could have supplied him the copy of the complaint and documents annexed therewith through electronic mode. It is further argued that there is no sufficient ground to condone the delay in filing the present petition.

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

It is a matter of record that summoning order in question are passed on 02.11.2017. That the present revision petition is filed on 03.03.2020. That vide such order, accused was summoned for 04.12.2017. But it is settled law that unless there is a gross negligence on the part of revisionist /applicant, the court should be lenient while dealing with delay aspect in revision/appeal particularly in criminal matter as in such criminal matter, the issue regarding life and liberty is also involved, which touches upon the fundamental rights of the accused. Further, it would always be better to decide such criminal matter on merit rather than such technicalities. The substantive right of the accused cannot be cut short.

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Further, ultimately by prolonging such criminal proceedings, revisionist/accused has little to gain as in any case he has to face the consequences as per law. Further, it is also settled that there should be effective hearing in a criminal matter i.e. the accused should have proper time to go through the allegation against him. It cannot be denied in today's tech savvy world the accused could have taken use of electronic mode in getting the copies from his counsel. But the fact remains that he was not present in India earlier and after he came back India, he was arrested by Enforcement Directorate. Under these circumstances, the explanation given by the accused for non-filing of such revision petition earlier cannot be said to be without sufficient basis. Under these circumstances, present application for condonation of delay is allowed.

**Put up for arguments on merit on the main revision petition for 21.12.2020.**

**TCR be summoned, if not already summoned for the next date of hearing forthwith so that there is no further delay in deciding the present matter on merit.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**



**Crl. Rev.: 96/2020,97/2020,98/2020,99/2020,100/2020 and  
101/2020**

**Deepak Talwar v. Income Tax Office**

**18.12.2020**

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

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

Present: Sh. Tanivr Ahmad Mir, Ld. Counsel for Revisionist alongwith Sh. Prabhav Ralli, through VC.  
Sh. Anuj Dhingra, Ld. Counsel for respondent/ ITO through VC.

Vide this order, the application u/s 5 of Limitation Act for condonoation of delay in filing of present revision petition is disposed of.

In nutshell, it is argued on behalf of Revisionist/applicant that revisionist suffered as massive heart attach in the year 2016 and undergone a quadruple by-pass surgery and as such he has to go to Dubai upon medical advise in October, 2017. That there he suffered as injunction at the hand of competent jurisdiction and petitioner was barred from travelling to Home Country/India. That impugned summoning order was passed on 20.05.2019 but complete record was served upon the revisionist only on 13.01.2020 when he applied for an application u/s 207 Cr.P.C. That he could not file present revision petition without going through the complete record of the complaint in question. It is further stated that he was even arrested by ED on 31.01.2019 and was in JC and was not keeping well. In fact, in the summoning order dated 20.05.2019, it is reflected that present accused/revisionist was in JC on the date of such summoning order. As such, it is claimed that there is no delay in filing present revisionist petition. But by way of abundant question the present application is filed for condonation of delay, if any. It is further argued that there is number of judgments which states that criminal matters in particular be heard on merit and technicalities should not come into the way, otherwise substantive right of the accused/revisionist will suffer. It is further argued that period of delay is matter of facts and circumstances in



each matter for the purpose of condonation and there cannot be any mathematical formula for the same.

On the other hand, it is argued on behalf of the respondent/ITO that present application is sheer abuse of process of court. There is a delay in filing the present revision petition. It is further argued that in today's tech savvy world, even if such accused was not allowed to travel back to India still he could have instructed his counsel through electronic mode. It is further stated that in any case he was not physically confined in Dubai and was free to travel within that country and give instructions. It is further stated that in order to avoid process of law in India, he fled for Dubai and did not intentionally appeared before the court of law. That he cannot be allowed to take benefits of his own wrongs. He was well aware about the summoning order passed against him. It is further argued that plea of by-pass surgery and staying away due to pollution is taken for the first time in the present application only that too without any supporting document. It is further argued that such revisionist/applicant was giving instructions to his client from abroad. Therefore, likewise the learned advocate could have supplied him the copy of the complaint and documents annexed therewith through electronic mode. It is further argued that there is no sufficient ground to condone the delay in filing the present petition.

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

It is a matter of record that summoning order in question are passed on 20.05.2019 when the accused was in JC to the knowledge of the complainant. That the present revision petition is filed on 07.02.2020. That vide such order, accused was summoned for 11.07.2019. But it is settled law that unless there is a gross negligence on the part of revisionist /applicant, the court should be lenient while dealing with delay aspect in revision/appeal particularly in criminal matter as in such criminal matter, the issue regarding life and liberty is also involved, which touches upon the fundamental rights of the accused. Further, it would always be better to decide such criminal matter on merit rather than such technicalities. The substantive right of the accused cannot be cut short.

:3:

Further, ultimately by prolonging such criminal proceedings, revisionist/accused has little to gain as in any case he has to face the consequences as per law. Further, it is also settled that there should be effective hearing in a criminal matter i.e. the accused should have proper time to go through the allegation against him. It cannot be denied in today's tech savvy world the accused could have taken use of electronic mode in getting the copies from his counsel. But the fact remains that he was not present in India earlier and after he came back India, he was arrested by Enforcement Directorate. Under these circumstances, the explanation given by the accused for non-filing of such revision petition earlier cannot be said to be without sufficient basis. Under these circumstances, present application for condonation of delay is allowed.

**Put up for arguments on merit on the main revision petition for 21.12.2020.**

**TCR be summoned, if not already summoned for the next date of hearing forthwith so that there is no further delay in deciding the present matter on merit.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**18.12.2020**

*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.

**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

Present: Mr. Vipin Kumar, learned counsel for revisionist.

Mr. Gyan Prakash, learned Substitute Addl. PP for the State through VC.

Issue notice of the application u/s 5 of Limitation Act to the respondents. Steps be taken within one week.

**Put up for 21/01/2021.**

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**





**CA No.: 71/2019 & 72/2019**  
**Shyam Sunder Gupta & Jai Mohan**

**18.12.2020**

*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.

**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

Present: Mr. Saroj Goel, learned counsel for the appellant.

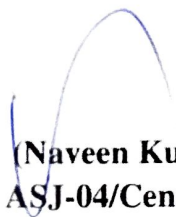
Respondent Jai Mohan in person.

An application filed dated 16/12/2020 for deposit of amount directed by this Court on 04/02/2020.

This Court has gone through such application. The present appeal is filed on 15/02/2019. Alternatively, vide order dated 04/02/2020 appellant was directed to deposit certain amount. Thereafter, now the Court has even started limited physical hearing also and through virtual hearing otherwise. But the fact remains that such deposit of money is not made despite more sufficient opportunity. As such, no ground is made out to extend the time to deposit such money.

As such, the stay granted on the present conviction vide order dated 04/02/2020 stands vacated. Issue NBW against appellant for the next date of hearing. Steps be taken by respondent Jai Mohan within 3 days.

Put up for report on NBWs and final arguments on this appeal for 17/02/2020.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**CA No. 181, 185, 186 & 187 / 2019**  
**Hitesh Kumar Aggarwal Vs State & Anr**

**18.12.2020**

**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

Present: None for appellant through VC or physically on this physical day hearing of this Court.

Mr. Gyan Prakash, learned Substitute Addl. PP for the State through VC.

Mr. Kunal Kalra, learned counsel for respondent no.2.

Such matter was kept on physical hearing day having regard to the issue involved. It is noted that vide order dated 22/02/2020 sentence passed by learned Trial Court was suspended subject to deposit of 20% of the fine / conviction amount. But now when the Court has again started functioning, such deposit is not made so far nor any explanation given for non deposit of the same.

As such, such suspension of sentence is revoked. Issue NBW against convict / appellant Hitesh Kumar Aggarwal. Steps be taken within 7 days.

Put up for report of NBWs, final arguments and appropriate orders for **06/03/2021.**

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**At 2:15 PM**

At this stage Mr. Vaibhav Sinha, learned counsel for appellant has appeared. He stated that he could not appear in morning. Further he stated that he is ready with the FD of Rs.40,000/-(each) drawn on Bank of Baroda and the same is placed on record. In view of

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*CA No. 181, 185, 186 & 187/ 2019*  
*Hitesh Kumar Aggarwal Vs State & Anr*

the same order passed in the morning is recalled. Sentence is suspended in terms of previous order. Further NBWs are recalled.

Put up for final arguments on the date already fixed i.e. 06/03/2021.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**



**CR No.:291/2020**  
**Deputy Commissioner of Income Tax Vs Ashok Jaipuria**

**18.12.2020**

*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.

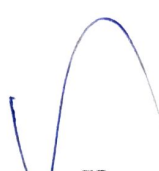
**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

Present: Learned counsel for the revisionist.

Arguments heard.

Issue notice of the present revision petition to respondents through physical as well as electronic modes for the next date of hearing.

Put up for **27/04/2021**.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

At this stage, learned Mr. S.P.P. Kanhaiya Singh appeared for revisionist, at his request the next date of hearing is changed to **09/02/2021**. The earlier date of 27/04/2021 stands cancelled accordingly.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**MISC APPLICATION**

**State v. Gaurav Chauhan  
(Bail Bond of Ankur Singh)  
FIR No.: 199/2009  
PS: Kashmere Gate**

**18.12.2020**

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through VC.  
Smt. Yogendari and Anurag Singh, sureties for accused Ankur Singh are present.

A report dated 15.12.2020 filed by SI Pankaj Thakran PS Kashmere Gate regarding the address and security given by such two sureties.

Such original FD of HDFC bank amounting Rs. 20,000/- dated 01.12.2020 and FD of Axis Bank amounting Rs.20,000/- dated 01.12.2020 are retained on record.

In view of the same, bail bond accepted.

Such accused is stated to be on interim bail at present. Copy of this order be sent to jail Superintendent concerned for his information as now such accused is admitted to bail today, in view of such bail bond furnished.

  
**(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020**

**CR:281/2020**  
**Naresh Chawla @ Happy v. The State and Anr.**

**18.12.2020**

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

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

Present: Sh. Sunil Kapoor, Ld. Counsel for revisionist.

An application for condonation of delay filed.

Issue notice of this application u/s 5 of Limitation Act only to the respondent. Steps be taken within one week.

**Put up for 03.03.2021.**

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**



**CR:258/2020**  
**Dr. Sanjay Agarwal v. State & Ors.**

**18.12.2020**

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

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

Present: Ms. Meenakshi Aggarwal, Ld. Counsel for revisionist.

Heard.

Issue notice of this revision petition to all the respondents through physical mode as well as through electronic mode for 27.04.2021.

Steps be taken within one week. Further, TCR be also summoned for next date of hearing.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**





**CR: 212/2020**  
**Suraj Cables v. MMJ Construction and Anr**

**18.12.2020**

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

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

Present: Sh. Sahil Garg, Ld. Counsel for revisionist.

Heard.

Issue notice of this revision petition through physical mode as well as through electronic mode for 29.04.2021.

Steps be taken within one week.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

**MISC APPLICATION**

**State v. Imran @ Akhtar  
(Bail bond of Yogesh Singh)  
FIR No.: 227/2020  
PS: Wazirabad**

**18.12.2020**

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through VC.  
Surety Chaudhary Harsh Singh alongwith proxy counsel Sunil Kumar is present.

Report dated 18.12.2020 filed by HC Rahul Panwar.

In view of such report, address of the surety as well as Kisan Vikas Patra is verified.

In view of same, such bail bond is accepted. However, Kisan Vikas Patra of Rs.20,000/- dated 15.12.2020 is retained on record.

**(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020**

**MISC APPLICATION**

**State v. Pramod  
(Replacement of surety Deepak Singh)  
FIR No.: 485/2014  
PS: Timarpur**

**18.12.2020**

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through VC.  
Sh. Saurabh Singh, Ld. Counsel for applicant.  
New Surety Surender Singh is present.

This is an application for discharge of surety . In view of the fact that new surety is replaced with old one.

Heard.

As such, old surety Ravi Kumar stand discharged. His security, if any be cancelled/returned.

**(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020**



**MISC APPLICATION**

**State v. Pramod  
(Bail bond of Deepak Singh)  
FIR No.: 485/2014  
PS: Timarpur**

**18.12.2020**

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through  
VC.  
Sh. Saurabh Singh, Ld. Counsel for applicant.

In view of report by HC Ravinder Kumar No. 439/N PS Timarpur,  
address as well as security as RC DL6SBC9795 is verified.

In view of the same, Bail bond accepted of this applicant.

**(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020**



**State v Shakeel & others**  
**(Application of Shakeel)**  
**FIR No: 142/2017**  
**PS: Lahori Gate**

**18.12.2020**

**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State through VC.  
Mr. Ayub Ahmed Qureshi, learned counsel for applicant.

Learned Regular Addl.PP on leave today.

As such, put up for further arguments / clarification in terms of previous orders for **18/01/2021**.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**



**Misc. Application of Gaurav @Kishan**  
**FIR No: 13/2017**  
**PS: Karol Bagh**

**18.12.2020**

**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State through VC.  
Proxy counsel for applicant.

Clarification is required from the learned Addl.PP for the State.

As such, put up for further arguments / clarification for **18/01/2021**.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**



**State v Rahul Sharma & others**  
**(Application of Kishan Kumar)**  
**FIR No: 339/2016**  
**PS: Darya Ganj**

**18.12.2020**

**This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.**

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State through VC.  
Mr. Akhilesh Kamle, learned counsel for the applicant.

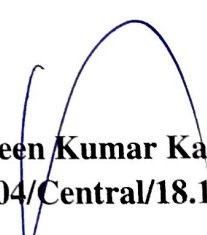
Vide this order the application dated 18/08/2020 for release of vehicle bearing No. DL 01SX 2909 motorcycle and one black colour micromax mobile phone is moved on behalf of applicant Kishan Kumar is disposed off.

It is argued that trial is pending in this Court. That earlier application dated 24/02/2020 was filed; that such two articles were impounded by IO during investigation; that the same belong to the accused / applicant. As such, it is prayed the same be released to the present applicant.

Arguments heard.

It is noted in order dated 19/08/2020 that application for release of such vehicle is already rejected by my learned Predecessor and the same is not challenged in any higher Courts. In view of the same, as far as release of the vehicle is concerned, such prayer is rejected.

For the reason even the prayer for release of micromax mobile which is a case property is rejected. With these observations present application is dismissed.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

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**BAIL APPLICATION**

**State v. Pooja  
(applicant Munni @ Moni)  
FIR No.: 292/2014  
PS: Rajinder Nagar  
U/S: 302,397,411,120B,34 IPC**

**18.12.2020**

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through  
VC.  
None for applicant.

Put up for further arguments/clarifications and further orders  
for 21.01.2021.

**(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020**



**18.12.2020**

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

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

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

Present: Appellant Sateesh Jain in person through VC.  
Ms. Safina Khan, Ld. Counsel for respondent/ITO.

Counsel for Appellant is not available today.

Still in the interest of justice, put up for arguments and orders as other matters are pending in this court for 15.02.2021.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**



**SC:687/2017**  
**FIR No: 25/2017**  
**PS: Maurice Nagar**  
**State v. Shahnawaj @ Shanu**

**18.12.2020**

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

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through  
VC.  
None for accused.

Issue fresh NBW against the accused in terms of order dated  
25.11.2020.

Put up for service of such NBW and pronouncement of  
judgment/clarifications, if any for **18.01.2021**.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

18.12.2020

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

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

Present: None for Appellant.  
Respondent in person with counsel Sh. G.S. Bhatia,

It is submitted by learned counsel that in fact final arguments already addressed in detail on 03.02.2020 and thereafter matter was put up for further arguments.

Thereafter, opportunity was given to Appellant to address arguments on 11.09.2020, 17.12.2020 and for today. Despite that appellant failed to address any further arguments. It is further stated that arguments are already over from respondent side.

Heard.

As such, put up for judgment/clarifications on 23.01.2021.

but in the interest of justice, appellant is given liberty to address oral arguments in the morning session on next date of hearing or submit written arguments not exceeding three pages.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**

18.12.2020

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

**Present:** Sh. Hansraj, Ld. Counsel for convict/Appellant Rajender Kumar.

Bail bond furnished u/s 437A Cr.P.C.

The security given is the same as given earlier by the same surety Smt. Baljinder Kaur. Same is accepted.

(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020

**At 1 pm**

**Present:** Appellant in person with Surety Smt. Baljinder Kaur in person.  
Sh. Hansraj Singh, Ld. Counsel for Appellant.  
Ld. Counsel for Respondent through VC.

Vide separate judgment pronounced by Appellant court in Open court today i.e 18.12.2020, the impugned judgment is upheld. But the sentence is reduced to as under:

- (i) Convict Rajender Kumar is sentenced to simple imprisonment for a period of six months and;
- (ii) He is directed to pay compensation of Rs.4,97,340/- within fifteen days from today to the respondent company. In case of default of payment of such compensation, the convict shall further undergo simple imprisonment for three more months.

Accused be granted benefit of Section 428 Cr.P.C. i.e. the period already spent in JC during trial and/or during this appeal shall be set off against such above mentioned sentence.

A copy of this order be given dasti free of cost to the convict.

Further, a copy of this be sent to Jail Superintendent concerned.

**Appellant file be consigned to Record Room after due compliance.**

**Trial court record be sent back.**

(Naveen Kumar Kashyap)  
Appellant Court/ASJ-04  
Central/THC/18.12.2020  
Additional Judge-04, (Central)  
THC/Delhi



**SC:28592/16**  
**FIR No: 275/2009**  
**PS: Burari**  
**State v. Mohd. Nazim**

**18.12.2020**

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

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through VC.  
Sh. Sagheer Ahmad, Ld. Counsel for all the accused except accused Mohd. Yakub.  
Accused Mohd. Nazim in person.

Bond u/s 437 A Cr.P.C. not furnished.

All the accused are directed to appear in person on next date of hearing to furnish such bail bond u/s 437A Cr.P.C.

Put up for furnishing of bail bond, final arguments, if any and pronouncement of judgment for 14.01.2021.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/18.12.2020**



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

**State Vs Raj Bahadur & others**  
**Regular bail application of applicant Sanjay @Dharamvir**  
**FIR No.: 130/2014**  
**PS : Kamla Market**  
**U/s : 419, 420, 365, 392, 395, 412, 120B IPC**

**18/12/2020**

Present: Mr. Gyan Prakash, Learned Substitute Addl. PP for  
State through VC.  
Mr. Rajan Bhatia, learned counsel for the accused.

Arguments already heard. Today the case was fixed for  
order on the day of physical hearing of this Court.

Vide this order, bail application dated 24/08/2020 u/s 439  
Cr.PC filed by applicant through counsel is disposed off.

It is stated in the application as also argued by learned  
counsel for the applicant that there is material change in  
circumstances; that co-accused Raj Bahadur and Vasudev are  
granted regular bail former by the Hon'ble High Court and later on,  
later by this Court. It is further argued that accused was granted  
interim bail and at present he is on interim bail. That on the ground of  
parity, he be also granted regular bail. That the case is at the stage of  
DE. As such, there is no occasion to threat the prosecution witness  
any more. It is further argued that the conduct of the accused was  
satisfactory while on interim bail. As such, it is prayed that he be  
granted interim bail.

: 2 :

On the other hand, it is argued by learned Addl. PP for the State it is stated that there are specific and serious allegations against the present accused; that he along with the co-accused committed the heinous offence; it is further argued that such offence is nuisance to society at large. That offence in question was executed in a well planned manner.

I have heard both the sides.

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

imprisoned during the period of his trial. The basic rule is to release him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

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





being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439 CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

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

Further discretionary jurisdiction of courts u/s 437 and 439

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

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745** ).

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for grant or refusal of bail to an accused in a non-bailable offence like, (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) Nature of accusation and evidence therefor, (iii) Gravity of the offence and punishment which the conviction will entail, (iv)

Reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, (v) Character and behavior of the accused, (vi) Means, position and standing of the accused in the Society, (vii) Likelihood of the offence being repeated, (viii) Reasonable apprehension of the witnesses being tampered with, (ix) Danger, of course, of justice being thwarted by grant of bail, (x) Balance between the rights of the accused and the larger interest of the Society/State, (xi) Any other factor relevant and peculiar to the accused. (xii) While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. Furthermore, in the landmark judgment of **Gurucharan Singh and others v. State** (AIR 1978 SC 179), it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant



factors in deciding whether to grant bail or not.

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

In the present case, it is a matter of record that vide order dated 24/08/2020 Hon'ble High Court was pleased to grant bail to the accused Raj Bahadur. All the grounds which are raised before this Court by the prosecution side were raised before Hon'ble High Court also. Further, role of the present accused is similar to the role of such Raj Bahadur. Further, matter is now at the stage of defence evidence. As such, there is no more occasion to extend threat to prosecution witnesses.

In above facts and circumstances, such accused is granted bail subject to furnishing of **personal bond in the sum of Rs. 15,000/- with two sound surety of like amount**, subject to the

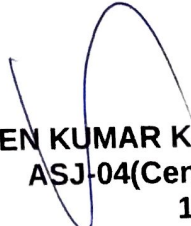
satisfaction of the learned Trial court and the following additional conditions:

- i) Applicant shall not flee from the justice;*
- ii) Applicant shall not tamper with the evidence;*
- iii) Applicant shall not leave country without permission;*
- iv) Applicant shall convey any change of address immediately to the IO and the court;*
- v) 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.

**The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain order through electronic mode. Further copy of this order be sent to concerned Jail Superintend, IO / SHO. Copy of order be uploaded on website.**

The observations made in the present interim 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 KUMAR KASHYAP)**  
**ASJ-04(Central/Delhi)**  
**18.12.2020**

## **Bail Application**

**State Vs. Arsalan Ali & others  
Application for applicant Juber**

**FIR No. : 182/2017**

**PS: Kamla Market**

**U/S: 395, 397, 34 IPC & 25, 54, 59 Arms Act**

**18.12.2020**

Present: Mr. Gyan Prakash, Ld. Substitute Addl. PP for the State through VC

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

In the present case, it is argued that at the time of earlier regular bail application filed on 25/11/2020 concerned IO SI Giri Raj submitted manipulated and misleading report and falsely claimed that accused Juber put country made pistol on the complainant's head. But record shows that Juber had stuffed cloths in the mouth of complainant while co-accused Javed put such country made pistol on the head of complainant. Therefore, IO wrongly claimed more serious role of the present accused. Further, learned counsel has taken various other grounds in para 5 to 17 of such application which were taken earlier also in the earlier bail application which is disposed off on 04/11/2020. As such, it is prayed that he be granted regular bail.

On the other hand, it is argued by the learned Addl.PP for the State and SI Giri Raj in his reply dated 01/12/2020 that as per record it is the accused Juber only who

Application for applicant Juber  
FIR No. : 182/2017  
PS: Kamla Market

U/S: 395, 397, 34 IPC & 25, 54, 59 Arms Act

: 2 :


put country made pistol on the head of the complainant. It is further stated that there is no material change in circumstances since dismissal of his last bail application. It is further argued that present application is abuse of process and deserves dismissal.

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

There is no material change in circumstances even if it is not the present accused who has not put pistol / used arms in the offence in question. With these observation present application is dismissed.

**With these observations present bail application is disposed of as dismissed. Learned counsel for the applicant / accused is at liberty to collect the order dasti or through electronic mode. Copy of order be uploaded on the website.**

The observations made in the present 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 Kumar Kashyap)**  
**Additional Sessions Judge-04**  
**Central/THC/Delhi**  
**18/12/2020**



**MISC APPLICATION**

**State v. Bablu Mathur & Ors  
(Application for release of RC)  
FIR No.: 221/2015  
PS: Karol Bagh**

**18.12.2020**

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

Present: Mr.Gyan Prakash, Substitute learned Addl.PP for State through  
VC.  
None for applicant.

Certain clarifications required.

Put up for clarifications/appropriate orders for 19.01.2021.

  
**(Naveen Kumar Kashyap)  
ASJ-04/Central/18.12.2020**

**Bail Application**

**State Vs Ajay Pal & others**  
**Application for bail of applicant Sudhir Pal**  
**FIR No. : 678/2015**  
**PS: Subzi Mandi**  
**U/S: 302, 306, 34 IPC**

**18.12.2020**

Present: Mr. Gyan Prakash, Ld. Substitute Addl. PP for the State  
through VC  
Mr. Hansraj Singh, learned counsel for applicant.

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

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

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



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

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

Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

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

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

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745** ).

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme

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

Further it may also be noted that it is also settled law that while disposing of bail applications u/s 437/439 Cr.P.C., courts should assign



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

In the present case, it is submitted on behalf of the accused that third bail application was dismissed on 02/03/2020 as withdrawn with liberty to file afresh with new facts. Earlier bail applications were dismissed on 01/05/2017, 08/06/2017. That first bail application was dismissed on the ground of alleged threat to witness Deepak Vishnu. Such allegations are baseless in any case now such witness is already examined and cross examined. It is further argued that earlier the case was not registered u/s 302 IPC initially but later on converted to 302 IPC from 306 IPC. That the deceased was married to Ajay Pal one of the co-accused. That earlier present applicant and his wife were granted anticipatory bail in January, 2016 but later on due to tutoring of one witness Pari D/o Ajay Pal and statement given by her later on the case was converted into 302 IPC. That Deepak Vishanu, Manoj Gupta and Kamal Sharma did not support the prosecution during their evidence. That trial is likely to take some more time in view of pandemic condition. That earlier he was on bail and there is no complaint against the applicant. As such, it is prayed that he be granted regular bail.

On the other hand, it is argued by the learned Addl.PP for the State that such natural witness / daughter of one of the co-accused Ms. Pari has even supported the prosecution during her evidence in Court. That there are specific allegations of serious nature against the present accused. Further accused is identified in Court. As such, present application is strongly

opposed.

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

It is rightly pointed out by the learned Addl. PP for the State that offence is serious in nature. Further, the evidence is not supposed to be discussed in detail, this being a bail application but sufficient to say that natural witness, Baby Pari has deposed against the accused even during her evidence in Court. The Minimum punishment prescribed for the offence is imprisonment for life. Therefore, having regard to the nature of offence, incriminating evidence against accused, As such, this Court is not inclined to grant regular bail to accused at this stage.

**With these observations present bail application is disposed of as dismissed. Learned counsel for the applicant / accused is at liberty to collect the order dasti or through electronic mode. Copy of order be uploaded on the website.**

The observations made in the present 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 Kumar Kashyap)**  
**Additional Sessions Judge-04**  
**Central/THC/Delhi**  
**18/12/2020**

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

**BAIL APPLICATION**

**State v. Inderjeet @ Rahul & Ors.  
(Applicant Mohit)  
FIR No.: 19/2019  
PS: Timarpur**

18.12.2020

Present: Mr. Gyan Prakash, Substitute Addl. PP for the State.  
Mr. Alamine, Ld. Counsel for accused/applicant in person.

Vide this order, the bail application under section 439 Cr.P.C. on behalf of accused Mohit dated 07.09.2020 filed through counsel is disposed of.

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

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



imprisoned during the period of his trial. The basic rule is to release him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

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

guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

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

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

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745** ).

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme



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

Further it may also be noted that it is also settled law that while disposing of bail applications u/s 437/439 Cr.P.C., courts should assign reasons while allowing or refusing an application for bail. But

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

In this case, it is stated that accused is falsely implicated that there is cross FIR between accused and complainant side. That FIR of the present accused side was got registered earlier and the present FIR is the counter blast of the same. That applicant is a young person and a student. That no purpose would be served by keeping him in JC. Further, he is suffering from various diseases. That due to present pandemic condition, trial is likely to take some more time. As such, he be granted regular bail.

On the other hand, in reply dated 12.12.2020 filed by ASI Kailash Chand, it is stated that present accused could not be arrested earlier and he was declared PO and thereafter, later on he surrendered in court and taken into custody. That his anticipatory bail application was rejected. That his presence may not be secured, if he is granted bail. As such, present application is opposed.

In the present case, offences charged are punishable upto 7 years. Accused is in JC since his arrest. Trial is likely to take time during such pandemic situation. That he is a young person. As far as his presence for trial is concerned, appropriate terms may be imposed to secure the same.

Under these facts and circumstances, the present accused is also granted bail on his furnishing a personal bond and two surety bonds in the sum of Rs. 15,000/- each to the satisfaction of the Court, subject to the following conditions:

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

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

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

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

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

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

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

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

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/THC**  
**18.12.2020**



: 1 :

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

**State Vs Raj Bahadur & others**  
**Regular bail application of applicant Yadvender @ Guddu Yadav**  
**FIR No.: 130/2014**  
**PS : Kamla Market**  
**U/s : 419, 420, 365, 392, 395, 412, 120B IPC**

**18/12/2020**

Present: Mr. Gyan Prakash, Learned Substitute Addl. PP for  
State through VC.

Arguments already heard. Today the case was fixed for  
order on the day of physical hearing of this Court.

Vide this order, bail application dated 21/10/2020 u/s 439  
Cr.PC filed by applicant through counsel is disposed off.

It is stated in the application as also argued by learned  
counsel for the applicant that there is material change in  
circumstances; that co-accused Raj Bahadur and Vasudev are  
granted regular bail former by the Hon'ble High Court and later on,  
later by this Court. It is further argued that accused was granted  
interim bail and at present he is on interim bail. That on the ground of  
parity, he be also granted regular bail. That the case is at the stage of  
DE. As such, there is no occasion to threat the prosecution witness  
any more. It is further argued that the conduct of the accused was  
satisfactory while on interim bail. As such, it is prayed that he be  
granted interim bail.

On the other hand, it is argued by learned Addl. PP for the



State it is stated that there are specific and serious allegations against the present accused; that he alongwith the co-accused committed the heinous offence; it is further argued that such offence is nuisance to society at large. That offence in question was executed in a well planned manner.

I have heard both the sides.

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

him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

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

that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439 CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

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

Further discretionary jurisdiction of courts u/s 437 and 439 CrPC should be exercised carefully and cautiously by balancing the



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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

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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.

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

In the present case, it is a matter of record that vide order dated 24/08/2020 Hon'ble High Court was pleased to grant bail to the accused Raj Bahadur. All the grounds which are raised before this Court by the prosecution side were raised before Hon'ble High Court also. Further, role of the present accused is similar to the role of such Raj Bahadur. Further, matter is now at the stage of defence evidence. As such, there is no more occasion to extend threat to prosecution witnesses.

In above facts and circumstances, such accused is granted bail subject to furnishing of **personal bond in the sum of Rs. 15,000/- 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 leave country without permission;*
- iv) Applicant shall convey any change of address immediately to the IO and the court;*
- v) 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.

**The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain order through electronic mode. Further copy of this order be sent to concerned Jail Superintend, IO / SHO.**

The observations made in the present interim 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 KUMAR KASHYAP)**  
**ASJ-04(Central/Delhi)**  
**18/12/2020**

: 1 :

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

**SC No.: 27225/2016**  
**State Vs Tehsin @ Kevda & others**  
**Regular bail application of applicant Anis @ Dupattewala**  
**FIR No.: 20/2015**  
**PS : Kamla Market**  
**U/s : 302, 396, 412, 34 IPC**

**18/12/2020**

Present: Mr. Gyan Prakash, Learned Substitute Addl. PP for  
State through VC.  
None for accused.

Arguments already heard. Today the case was fixed  
for order on the day of physical hearing of this Court.

Vide this order, bail application dated 22/10/2020 u/s  
439 Cr.PC filed by applicant through counsel is disposed off.

It is stated in the application as also argued by learned  
counsel for the applicant that there is material change in  
circumstances; that co-accused / main accused Tehsin @ Kevda is  
granted regular bail by Hon'ble High Court vide order dated  
25/09/2020 in bail application No. 1724/2020. It is further argued  
that he is in JC since his arrest on 12/01/2015; except the  
statement of PW12 & PW24 there is no evidence against the  
present accused; present case is based on circumstantial  
evidence; that there is no CCTV footage about the actual incident  
in question; that out of 36 witnesses 27 witnesses are already  
examined. No purpose would be served by keeping him in JC. As  
such, it is prayed that he be granted regular bail.

Regular bail application of applicant Anis @ Dupattewala  
FIR No.: 20/2015  
PS : Kamla Market  
U/s : 302, 396, 412, 34 IPC

On the other hand, it is argued by learned Addl. PP for the State it is stated that there are specific and serious allegations against the present accused; that he along with the co-accused committed the heinous offence; it is further argued that such offence is nuisance to society at large. That offence in question was executed in a well planned manner.

I have heard both the sides.

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

why he should be imprisoned during the period of his trial. The basic rule is to release him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after convictions, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earlier times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial ,but in such case 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the constitution that any persons should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty under Article 21 of the Constitution upon only the belief that he will tamper with the





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witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439 CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

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



society disapproves, the legal consequences are bound to follow.

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

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745** ).

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for grant or refusal of bail to an accused in a non-bailable offence like, (i) Whether there is any prima facie or

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reasonable ground to believe that the accused had committed the offence; (ii) Nature of accusation and evidence therefor, (iii) Gravity of the offence and punishment which the conviction will entail, (iv) Reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, (v) Character and behavior of the accused, (vi) Means, position and standing of the accused in the Society, (vii) Likelihood of the offence being repeated, (viii) Reasonable apprehension of the witnesses being tampered with, (ix) Danger, of course, of justice being thwarted by grant of bail, (x) Balance between the rights of the accused and the larger interest of the Society/State, (xi) Any other factor relevant and peculiar to the accused. (xii) While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. Furthermore, in the landmark judgment of **Gurucharan Singh and others v. State** (AIR 1978 SC 179), it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of

circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.


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

In the present case, it is a matter of record that vide order dated 25/09/2020 Hon'ble High Court was pleased to grant bail to the accused Tehsin @ Kevda. It is observed by Hon'ble High Court in such bail order that one of the two independent witness i.e. PW24 has turned hostile and not supporting the prosecution case. But Hon'ble High Court also noted in para 5 of such bail order that there was no other criminal antecedents of

such accused Tehsin @ Kevda as per the status report filed by Police. Further, there is no complaint against him during his incarceration in Jail to the knowledge of police. Whereas, as per the reply dated 17/11/2020 filed by Inspector Shiv Ram Yadav, it is stated that family members of present accused do not have control on him. As such, his presence may not be secured for trial if released on bail. More importantly it is mentioned that there are as many as four criminal involvement of present accused apart from the present case. As such, in the view of this Court, accused cannot claim parity with the co-accused. As such having regard to the nature of offence and the role of present accused, this Court is not inclined to grant the bail to the present accused. The same is dismissed.

**The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain order through electronic mode. Further copy of this order be sent to concerned Jail Superintend, IO / SHO. Copy of order be uploaded on website.**

The observations made in the present interim 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 KUMAR KASHYAP)**  
**ASJ-04(Central/Delhi)**  
**18.12.2020**



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

**BAIL APPLICATION**

State v. Vinod @ Dada  
(APPLICATION OF ASHISH S/O MAHAVIR)  
FIR No. : 39/2019  
P. S. : Lahori Gate  
U/s: 394,397,307,411,120B,34 IPC &  
25,27 Arms Act.

18.12.2020

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

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

Present: Mr. Gyan Prakash , Substitute Learned Addl. PP for State  
through VC.


Sh. Harsh Hardy, Ld. Counsel for accused/applicant.

Arguments already heard. Today, case was fixed for order.

Vide this order, regular bail application u/s 439 Cr.PC dated  
22.10.2020 filed by applicant through counsel is disposed of.

I have already heard both the sides.

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





view of its expansive meaning not only protects life and liberty, but also envisages a fair procedure. Liberty of a person should not ordinarily be interfered with unless there exist cogent grounds therefor. The fundamental principle of our system of justice is that a person should not be deprived of his liberty except for a distinct breach of law. If there is no substantial risk of the accused fleeing the course of justice, there is no reason why he should be imprisoned during the period of his trial. The basic rule is to release him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

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



former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439 CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

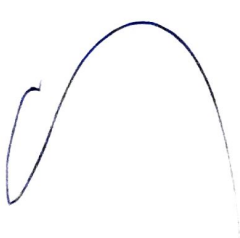
But, the liberty of an individual is not absolute. The Society by its collective wisdom through process of law can withdraw the liberty that it has sanctioned to an individual when an individual becomes a danger to the societal order. A society expects responsibility and accountability from the member,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

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

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers

of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745** ).

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





mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.


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

It is stated in the present case that this is the 1<sup>st</sup> regular bail application for accused Ashish. That present bail application is filed on the ground of parity. It is further argued that now there is a change in the circumstances and the main accused Vinod @ Dada is already granted regular bail by the Hon'ble High Court vide order dated 24.07.2020. Further, thereafter co-accused Deepak is granted regular bail by this court vide order dated 19.09.2020. It is further stated that he is in JC since 24.04.2019. That there is no possibility of tampering with evidence as the same are documentary/CCTV footage. As such, it is prayed that he be granted regular bail.

On the other hand, present bail application is vehemently opposed by the state. It is argued that there are specific allegations against the accused. That material witnesses are yet to be examined. As such, present bail application is opposed. It is further argued that offence is very serious in nature and is a nuisance to society at large. It is further stated that same is executed in a planned manner.

In this case, vide a detailed order dated 24.07.2020, Hon'ble High Court was pleased to grant bail to the co-accused Vinod @ Dada. All such grounds which are raised by the prosecution in the present bail application were also raised before Hon'ble High court during the arguments on the bail application of such co-accused. Further, co-accused Deepak is also granted regular bail vide order dated 19.09.2020. But in the bail granted by Hon'ble High court to accused Vinod @ Dada, it is also observed that there is no other criminal record of such accused Vinod @ Dada either in nominal role or in SCRB record dated 23.07.2020. Whereas as per report of SI Sandeep Singh. There are three other criminal cases in which present accused is involved i.e. FIR no. 750/2013 u/s 302 IPC etc., FIR no. 73/2015 u/s 307 IPC etc and Arms Act, FIR no. 67/2015 u/s 386 IPC. Further, it is stated in the reply by the IO that present accused does not have a permanent address and is a vagabond. As such, his presence may not be secured for trial if he is released on bail. As such, it can be seen that accused is found involved earlier also in offence of similar nature. Thus, for the reasons given by Hon'ble High Court on the regular bail of co-accused Vinod @ Dada that such other accused did not have any other involvement, present accused cannot claim parity. Even otherwise, his presence may not be secured for trial if he is released on bail. As such, this court is not inclined to grant him bail . **With these observations, present bail applications is dismissed.**

**Copy of this order be provided to both the parties through electronic mode. Further, copy of this order be sent to Jail Superintendent concerned through electronic mode.**

  
(NAVEEN KUMAR KASHYAP)  
ASJ-04(Central/Delhi)  
18.12.2020