

नरेश कुमार लका
NARESH KUMAR LAKA
अतिरिक्त जिला सेशन-02 (दक्षिण पूर्व)
Additional District Judge-02 (South East)
रूम नं. 319, 3rd फ्लोर
Room No. 319, 3rd Floor
जिला न्यायालय इलाहाबाद, नई दिल्ली
District Court Complex, New Delhi

**IN THE COURT OF SHRI NARESH KUMAR LAKA
ADDITIONAL DISTRICT & SESSIONS JUDGE (ON DUTY)
SOUTH EAST,
SAKET COURTS, NEW DELHI**

**FIR No. 25/20
PS: Sunlight Colony
U/s 8 of POCSO Act
State vs. Abdul Samad**

16.05.2020

As per the order of Ld. District & Sessions Judge, South-East bearing no. 13 dated 02.05.2020, the undersigned is deputed on duty to dispose of urgent applications/matters through CISCO Webcam App via Video Conferencing on account of countrywide lockdown owing to Coronavirus pandemic disease. Accordingly hearing has been conducted through video conferring on the aforesaid app.

Present: Sh. Ashok Kumar, Ld. Additional Public Prosecutor for the State.
Sh. Ankur Aggarwal, Ld. Counsel for the accused.

The present application has been filed seeking regular bail or in the alternative extension of the previous bail on behalf of accused Abdul Samad. Argument on the said bail application heard.

2. It is stated that the accused is a teacher of Taekwondo and he has been falsely implicated in the present case. It is also disclosed that he was arrested on 29.01.2020 and already remained in custody for more than 64 days and on account of spread of coronavirus pandemic disease and in terms of the direction issued by the Hon'ble High Court of Delhi, accused was granted interim bail vide order dated 04.04.2020. It is further stated that the accused is having three children and charge sheet has already been filed and no fruitful purpose would be serve to keep him behind the bar unless the alleged charges are proved.

3. On the other hand, Ld. APP for the State argued that the accused has been repeatedly harassing the victim and his regular bail was dismissed earlier.
4. On a court query, it is revealed that there is no mention about filing of any previous bail application in the present application or in the reply of the IO. Now the counsel for the accused/applicant stated that even if any bail application was previously dismissed, the accused has a right to file another bail application and the filing of the charge sheet itself shows the change of circumstances.
5. Now the Ld. APP for the State further stated that as per Section 29 & 30 of the POCSO Act, there is a presumption against the accused towards commission of the offence alleged under the said Act.
6. It is the matter of record that the accused has already been granted interim bail and he did not misuse his liberty by running away from the course of justice and rather he filed the present application for seeking extension or the regular bail. The accused has already undergone 64 days into custody and he has three children to take care of. The counsel for the accused also claimed that the accused is a permanent resident. If the accused is held guilty after conclusion of the trial, he will face the consequences and at this stage, no useful purpose would be served to keep him behind the bar when charge sheet has already been filed and no custodial interrogation is required. Moreover, on account of spread of coronavirus disease and as per the guidelines issued by the Hon'ble High Court of Delhi, a liberal view is required to be taken to decongest the overcrowded prisons to avoid contamination of the jail from the infectious disease of coronavirus.



7. Accordingly, in the light of the aforesaid submissions, the present regular bail application is allowed and the accused Abdul Samad is admitted to bail on furnishing a personal bond and surety bond in the sum of Rs. 40,000 each to the satisfaction of concerned Ld. Trial Court or Ld. Duty MM or Jail Superintendent. Copy of the order be sent to the concerned Jail Superintendent for information. The Computer Branch is directed to upload copy of this order on the website for information of the parties/advocates.



(Naresh Kumar Laka)
Additional District & Session Judge-03
South East District, Saket, New Delhi.

नरेश कुमार लाका
NARESH KUMAR LAKA
अतिरिक्त जिला न्यायाधीश-03 (दक्षिण पूर्वी)
Additional District Judge-03 (South East)
कमरा नं० 316, कोकरो मंजिल
Room No. 316, 3rd Floor
जिला न्यायालय परिसर, सकेत, नई दिल्ली
District Court Complex, New Delhi

**IN THE COURT OF SH. NARESH KUMAR LAKA
ADDITIONAL DISTRICT & SESSIONS JUDGE (ON DUTY)
SOUTH EAST, SAKET COURTS, NEW DELHI**

**FIR No. 84/17
PS: Pul Prahlad Pur
U/s 376/417/306/506/34 IPC &
Section 4 POCSO Act
Applicant/Accused: Vikas**

As per the order of Ld. District & Sessions Judge, South East, bearing No.13 dated 02.05.2020, the undersigned has been deputed on duty to dispose of urgent applications/matters through CISCO Webcam App via Video Conferencing on account of countrywide lockdown owing to Corona virus pandemic disease. Accordingly hearing has been conducted through video-conferencing on the aforesaid App.

ORDER

16.05.2020

Present: Sh. A. Ansari & Sh. Ashok Kumar, Ld. Additional Public Prosecutor for the State.
Sh. A.K. Day, Ld. Counsel for the applicant/accused Vikas.

The present bail application has been filed on behalf of the accused, namely, Vikas by claiming that he has been falsely implicated in the present case and he is in custody from 29.11.2019. It is also claimed that the accused was granted parole earlier for 7 days and after completion of the said period, he surrendered before the court on time which shows his *bona fide* conduct. It is also claimed that there was no role of the accused and his name was merely mentioned in the FIR falsely and he cannot be kept in custody for an indefinite period unless charges are proved. It is further claimed that the deceased had an affair with one Raj and since there was no evidence against Vikas, he was put in column No. 12 of the charge sheet and after issuance of process, he surrendered before the court and there is no intention of his fleeing away from the course of justice.

2. The Ld. APP for the State opposed this application on the ground

offences alleged are not covered within the guidelines issued by Hon'ble High Court of Delhi for grant of interim bail on account of Covid-10 pandemic but the present bail application has not been filed for seeking interim bail but it is otherwise a regular bail which is also required to be decided being within the category of urgent matter involving right and liberty of an individual who is running into custody. It is a settled position of law that mere mentioning of Sections in the FIR are not sufficient to conclude that the said offences have been committed. The FIR is only initiation of the process of investigation. A prima facie case is required to be made out on the basis of investigation and final conviction or acquittal on the basis of trial.

6. From the report of the IO, it is seen that there is no specific allegation against accused Vikas and it is also noted that the accused Vikas was not charge sheeted in the present case and he was kept in column no. 12 of the charge sheet. The accused Vikas was summoned by the concerned Trial Court and thereupon he was arrested on his surrender as per counsel for the accused, though the IO claimed that he was arrested after issuance of NBW. Be that as it may, it is seen that accused is into custody for a long period, allegations were made against another accused, namely, Raj @ Rakesh who was the paramour of the deceased.

7. Since the reply was not comprehensive, this court called the copy of suicide note as well as statement of the deceased recorded under Section 164 Cr.P.C. From the perusal of the suicide note, it is seen that there is no specific allegation against the accused Vikas and his name was only mentioned at the bottom. The Ld. Counsel for the applicant vehemently urged that the suicide note was not written by the deceased but by Anil after concoction of a story. From the detailed statement of the deceased recorded under Section 164 Cr.P.C. it is seen that there is not even a single assertion




that the alleged offences under Section 376 of IPC and Section 4 of the POCSO Act are not covered within the guidelines issued by Hon'ble High Court of Delhi for grant of interim bail on apprehension of spread of Coronavirus (COVID-19) pandemic disease. He also argued that there are public witnesses to be examined and the victim committed suicide which involves serious offences and merit cannot be looked into at this stage.

3. In the reply filed by the IO, it is stated that on 25.04.2017, complainant Radha got admitted in RML hospital when she tried to commit suicide by pouring kerosene oil on herself. SI Umrao reached the hospital and recorded the statement of the complainant and an FIR under Section 420/376/506/34 IPC was registered wherein the complainant mentioned the name of accused Vikas, Payal and Raj as the reason of her death. It is further stated in the reply that the matter was investigated by SI Manju Bala and statement of complainant was got recorded under Section 164 Cr.P.C. from the concerned MM wherein the complainant stated that she loved accused Raj who worked with her in a Jagran and she was four months' pregnant having the baby of accused Raj. The complainant also stated that the accused Raj was also having an affair with Payal and he refused to marry with complainant.
4. During investigation, the accused Raj @ Rakesh was arrested on 26.04.2017 and the other co-accused persons, namely, the sister, mother and brother of the accused were granted anticipatory bail by the court of Sh. Raj Kumar Tripathi vide order dated 08.05.2017. It is also stated that charge sheet in this case has already been filed and the accused Vikas was arrested after issuance of NBW by the concerned Court.
5. From the aforesaid reply, it is clear that there is no allegation against accused Vikas except mentioning his name in the FIR. No doubt, the

imputing any allegation against accused Vikas. From the nature of investigation and the allegation of the complainant, it is seen that it is a case of love affair and commission of suicide by the complainant on account of refusal of marriage proposal by accused Raj. If the prosecution succeeds ultimately in proving the charges against the accused Vikas, he will face the consequences but if he is acquitted, his personal liberty for the detention period cannot be given back. It is also seen that the other co-accused persons, namely, Geeta, Manoj Kumar and Nargis, mother, brother and sister respectively of the main accused Raj @ Rakesh were already granted anticipatory bail by the court of Sh. Raj Kumar Tripathi vide order dated 08.05.2017.

8. Accordingly, in the light of the aforesaid circumstances, the present application is allowed and the accused Vikas is admitted to regular bail on furnishing a personal bond and surety bond in the sum of Rs. 50,000 each to the satisfaction of concerned Court/Ld. Duty MM or Jail Superintendent with a direction not to tamper the evidence or influence the witnesses nor he will go outside India without permission of the court.

9. Copy of the order be sent to the concerned Jail Superintendent for information of the accused/applicant and a copy of the order be also uploaded on the official website of the District Courts, South East, New Delhi.


(Naresh Kumar Laka)
Additional District & Session Judge-03
South East District, Saket, New Delhi.

नरेश कुमार लाका
NARESH KUMAR LAKA
अतिरिक्त जिला न्यायाधीश-03 (दक्षिण पूर्व)
Additional District Judge-03 (South East)
कमरा नं० 318, तीसरी मंजिल
Room No. 318, 3rd Floor
जिला न्यायालय बरिसा सार्क
District Court Complex, Saket, New Delhi

नरेश कुमार लाका
NARESH KUMAR LAKA
अतिरिक्त जिला न्यायाधीश (दक्षिणी पूर्वी)
Additional District Judge (South East)
कमरा नं० 310, 3रा मंजिल
Room No. 310, 3rd Floor
जिला न्यायालय परिसर साकेत नई दिल्ली
District Court Complex, New Delhi

**IN THE COURT OF SH. NARESH KUMAR LAKA
ADDITIONAL DISTRICT & SESSION JUDGE (ON DUTY),
SOUTH EAST,
SAKET COURTS, NEW DELHI**

FIR No. 91/19
PS: Kalindi Kunj
U/s 365/302/201/120B/34 IPC
State vs. Neeraj @ Prashant
Accused/applicant: Gyan Prakash @ Gyani.

16.05.2020

As per the order of Ld. District & Sessions Judge, South-East bearing no. 13 dated 02.05.2020, the undersigned is deputed on duty to dispose of urgent applications/matters through CISCO Webcam App via Video Conferencing on account of countrywide lockdown owing to Coronavirus pandemic disease. Accordingly hearing has been conducted through video conferring on the aforesaid app.

Present: Sh. Ashok Kumar, Ld. Additional Public Prosecutor for the State.
Sh. R.D. Rana, Ld. Counsel for the accused/applicant, Gyan Prakash @ Gyani.

The present application has been filed seeking extension of interim bail on behalf of accused, Gyan Prakash @ Gyani for one month on account of serious illness of his mother, namely Smt. Munni Devi. Ld. Counsel for the accused/applicant stated that the accused Gyan Prakash was earlier granted interim bail by the court of Ms. Neena Krishna Bansal, Ld. District & Sessions Judge, South-East District as mother of the accused is a HIV positive patient and she was earlier admitted in ICU.

2. It is submitted by the Ld. Counsel for the applicant that the period of the said bail already expired on 06.04.2020, however, as per the order of Hon'ble High Court of Delhi dated 25.03.2020, the said period was extended which will be expiring on 15.05.2020, therefore, it is stated that the interim bail of the accused/applicant may be extended further for a period of one month. In this regard, the counsel for the accused/applicant also relied to a recent order passed by Hon'ble High Court of Delhi dated 15.05.2020 on the similar lines.

3. On the other hand, Ld. APP for the State raised an objection on the maintainability of the present application on the ground that the accused was facing trial for an offence of murder u/s 302 IPC and that he was granted interim bail by the Ld. Trial Court on account of medical condition of his mother but after completion of the said period of one month, the accused did not surrender before this court and he is taking shelter of the orders passed by Hon'ble High Court of Delhi which apply to the other cases of stay/bail which were passed in other pending cases which were adjourned *en bloc* on account of spread of coronavirus disease.

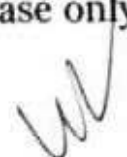
4. The relevant portion of the aforesaid Order dated 25.05.2020 is reproduced as under:



In view of the lockdown in the State of Delhi and the extremely limited functioning of courts, routine matters have been adjourned en bloc to particular dates in the month of April. Thus advocates and litigants have not been in a position to appear in the said matters, including those where stay/bails/paroles have been granted by this Court or the courts subordinate to this Court, on or before 16.03.2020. As a result, interim orders operating in favour of parties have expired or will expire on or after 16.03.2020.

Taking suo moto cognizance of the aforesaid extraordinary circumstances, under Article 226 & 227 of the Constitution of India, it is hereby ordered that in all matters pending before this court and courts subordinate to this court, wherein such interim orders issued were subsisting as on 16.03.2020 and expired or will expire thereafter, the same shall stand automatically extended till 15.05.2020 or until further orders, except where any orders to the contrary have been passed by the Hon'ble Supreme Court of India in any particular matter, during the intervening period.


5. From the perusal of the aforesaid order dated 25.03.2020, it is seen that the Hon'ble Chief Justice of High Court of Delhi along with two other Judges had passed an order extending the period of stay/bail/proles which were granted in the pending cases by the Hon'ble High Court as well as Subordinate Courts which have expired or will expire after 16.03.2020, they will stand automatically extended till 15.05.2020 on account of spread of pandemic disease of coronavirus. From the perusal of the said, it is seen that the said apply to the present case since in the instant case, no doubt, the serious offence of murder was alleged, but this bail order was passed in the pending case only by the Ld.



District Court (which is subordinate court) and there is no distinction of such orders, therefore, the accused is entitled for such extension of time.

6. Further the counsel for the accused also claimed that the said order has been further extended by a recent order dated 15.05.2020 by the 3 Bench of Hon'ble High Court of Delhi till 16.06.2020. Moreover, the condition of the mother of the accused/applicant is also very serious, supported by medical documents.

7. Accordingly, in the light of aforesaid discussion, the present application seeking extension of bail is allowed. The accused is admitted to interim bail on the previous bail bonds and terms and conditions. He will surrender before the Ld. Trial Court on 16.06.2020. Copy of order be sent to the concerned Jail Superintendent for information. The Computer Branch is directed to upload copy of this order on the website.


(Naresh Kumar Laka)
Additional District & Session Judge-03
South East District, Saket, New Delhi.

नरेश कुमार लाका
NARESH KUMAR LAKA
अतिरिक्त जिला न्यायाधीश-03 (दक्षिणी पूर्वी)
Additional District Judge-03 (South East)
कमरा नं० 318, तिसरी मंजिल
Room No. 318, 3rd Floor
जिला न्यायालय परिसर, सकेत, नई दिल्ली
District Court Complex, New Delhi

**IN THE COURT OF SHRI NARESH KUMAR LAKA
ADDITIONAL DISTRICT & SESSIONS JUDGE (ON DUTY)
SOUTH EAST,
SAKET COURTS, NEW DELHI**

FIR NO.196/2020

PS : LAJPAT NAGAR

**U/s. : 186/269/270/420/120B r/w Section 3 of the Epidemic Act and
Section 51 of the Disaster Management Act, 2005**

Applicant/Accused Sh. Puran Chand

Dated: 16.05.2020

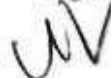
ORDER

As per the order of learned District & Sessions Judge, South East, bearing No.13 dated 02.05.2020, the undersigned has been deputed on duty to dispose of urgent applications/matters through CISCO Webcam application through Video Conferencing on account of countrywide lockdown owing to Corona virus pandemic disease.

Present : Sh. Ashok Kumar, learned Additional Public Prosecutor for the State
Sh. Pranay Abhishek, Ld. Counsel for the accused/applicant.

The present application has been filed under Section 438 Cr.P.C. seeking anticipatory bail on behalf of accused Puran Chand. Argument on the said application heard from learned counsel for the accused as well as learned APP for the State.

2. It is the case of the applicant that the police officials are visiting



at odd hours at the house of applicant and he is not involved in the alleged offences and he is merely the owner of the vehicle which was being used allegedly by two other accused persons who were arrested and already released on bail. The counsel for the applicant further stated that all the offences except Section 420/120B IPC are bailable and no investigation is required from the side of accused/applicant since the vehicle in question was already seized and statement of all the witnesses have already been recorded.

3. On the other hand, Id. APP for the State vehemently opposed this application by arguing that the accused was involved in cheating the innocent persons for giving them a false assurance to take outside the territory of Delhi to Etah, Uttar Pradesh by claiming that he was having permission of the Government to take the persons at his tempo traveller outside Delhi and this way he charged Rs.5000/- per person from around 16-20 persons and the cheated amount is required to be recovered.

4. From the perusal of the reply of the IO, it is seen that on the night of 4/5 May 2020, one vehicle was checked upon receiving of a complaint/message and there 15-20 persons were found sitting and the driver and the conductor of the said bus were interrogated and it was revealed from the passengers that the said two persons along with the owner of the vehicle have assured them to take to Etah, U.P. by claiming that they are having the permission of the Govt. during the lockdown period.

5. From the nature of the offences alleged, it is seen that all the offences are bailable except offence Section 420/120B IPC. However, from te

nature of the allegations, it is clear that the offence of the cheating was not complete and it could be said, at the best only an attempt to cheat. Moreover, it is also required to be examined whether the said offence of cheating is attracted as per Section 417 or 420 IPC. While the Section 417 is bailable and provides punishment for one year or with fine or with both whereas the Section 420 IPC provides punishment up to 7 years. In both the eventualities, the police officials are required to issue serve notice as per Section 41 Cr.P.C. to the accused before effecting any arrest and it is also required to be shown that the accused is avoiding to join of investigation or that he may indulge in any other offence or that he may tamper with the evidence or influence the witnesses. In simple words, he cannot be arrested in the ordinary circumstances. When the offence of cheating is also prima facie appears to be only an attempt, then also the maximum punishment of 7 years at the higher level can be read to half i.e. 3½ years, if the latter Section applies so.

6. The investigation is almost complete and no useful purpose would be served if the accused is sent behind the bar especially when the offences are bailable in nature except Section 420/120B IPC which are doubtful as observed above and notice before has also not been issued.

7. Under these circumstances, the present application is allowed with the direction that accused will join the investigation as and when required by the IO and in the event of his arrest, the accused will be admitted to bail on furnishing personal bond and surety bond in the sum of Rs. 30,000/- each to the satisfaction of the concerned SHO/IO. The accused will also join

the investigation and the court proceedings as and when required.

8. The Computer Branch is also directed to upload the copy of the order on the official website of the South-East District, Saket Courts, New Delhi.



(NARESH KUMAR LAKA)
Additional District Judge-03
South-East District, Saket Courts,
New Delhi/16.05.2020

नरेश कुमार लाका
NARESH KUMAR LAKA
अतिरिक्त जिला न्यायाधीश-03 (दक्षिण पूर्व)
Additional District Judge-03 (South East)
कमरा नं० 316, तीसरी मंजिल
Room No. 316, 3rd Floor
जिला न्यायालय परिसर साकेत, नई दिल्ली
District Court Complex, New Delhi

**IN THE COURT OF SHRI NARESH KUMAR LAKA
ADDITIONAL DISTRICT & SESSIONS JUDGE (ON DUTY)
SOUTH EAST,
SAKET COURTS, NEW DELHI**

**STATE VS. ARUN @ ANNA & SATVEL
FIR NO.331/2019
U/s. : 379/427/392/411/34 IPC
PS :OKHLA INDUSTRIAL AREA**

Dated: 16.05.2020

ORDER

As per the order of learned District & Sessions Judge, South East, bearing No.13 dated 02.05.2020, the undersigned has been deputed on duty to dispose of urgent applications/matters through CISCO Webcam application through Video Conferencing on account of countrywide lockdown owing to Corona virus pandemic disease.

Present : Sh. Ashok Kumar, learned Additional Public Prosecutor for the State.
Sh. A.K. Tiwari, learned counsel for the accused/applicants.


The present joint bail application has been filed on behalf of two accused, namely, Arun and Satvel seeking extension of the interim bail which was earlier granted by Sh. Sandeep Garg, Ld. ASJ vide order dated 15.04.2020.

2. The learned APP for the State opposed this application on the ground that accused persons are involved in many other similar cases.

3. From the perusal of the order dated 15.04.2020, it is seen that the accused persons were granted bail as the alleged offences were covered within the category of cases which were mentioned in the Minutes of Meeting of the High Powered Committee of the Hon'ble High Court of Delhi dated 07.04.2020 wherein it was directed to release the under trials who are involved in offences punishable upto 10 years on account of spread of Corona virus pandemic disease and to decongest the overcrowded prisons.

4. All the submissions were already discussed and dealt with in the said order dated 15.04.2020. The lockdown period has already been extended and even an Order has already been passed by Three Judges Bench of the Hon'ble High Court of Delhi on 15.05.2020 for further extension of the interim bail to such accused persons.

5. Accordingly, the present application is allowed and the interim bail of both the accused persons are extended for a further period of 30 days on the same bail bond as well terms and conditions. Application is disposed of. Copy of the order be sent to the concerned Jail Superintendent for information. The In-charge of the Computer Branch is also directed to upload the copy of the order on the official website of the District Courts, South-East, Saket, New Delhi for information of the parties/advocates.


(NARESH KUMAR LAKA)
Additional District Judge-03
South-East District, Saket Courts,
New Delhi/16.05.2020

नरेश कुमार लाका
NARESH KUMAR LAKA
अतिरिक्त जिला न्यायाधीश-03 (दक्षिण पूर्व)
Additional District Judge-03 (South East)
दफ्तार नं० 315, तिरुवा मंगलम
दफ्तार नं० 315, 3rd Floor
जिला न्यायालय परिसर साकेत नए दिल्ली
District Court Saket New Delhi

नरेश कुमार लका
NARESH KUMAR LAKA
अतिरिक्त जिला न्यायाधीश-03 (दक्षिण पूर्व)
Additional District Judge-03 (South East)
दफतार नं. 310, तीसरी मंजिल
फ्लोर नं. 310, 3rd Floor
सिटी - 110013, नई दिल्ली

**IN THE COURT OF SH. NARESH KUMAR LAKA
ADDITIONAL DISTRICT & SESSION JUDGE (ON DUTY),
SOUTH EAST,
SAKET COURTS, NEW DELHI**

FIR No. 524/16
PS: Jaitpur
U/s 120B/395/364A/328/
365/347/586 IPC

Dated: 16.05.2020

State vs. Manish, Rahul and Gaurav Kumar

As per the order of Ld. District & Sessions Judge, South-East bearing no. 13 dated 02.05.2020, the undersigned is deputed on duty to dispose of urgent applications/matters through CISCO Webcam App via Video Conferencing on account of countrywide lockdown owing to Coronavirus pandemic disease. Accordingly hearing has been conducted through video conferring on the aforesaid app.

Present: Sh. Ashok Kumar, Ld. Additional Public Prosecutor for the State.
Sh. Lalit Kumar, Ld. Counsel for the applicants/accused persons.

The present application has been filed seeking bail of three accused persons on the ground that said three accused persons are real brothers and their father is seriously ill and there is no one to take care of their father. Therefore, an interim bail has been sought on account of pandemic Coronavirus disease.

2. The Ld. Addl. PP for the State vehemently opposed the present application by arguing that in the instant case, serious offences are alleged for kidnapping and ransom of a doctor and his compounder/chemist. It is also stated that the CDR (Call Details Record) of the accused persons tallied with the location where the victims were taken after their abduction.




3. Various other arguments were addressed by both the sides but the counsel for the accused persons vehemently stated that neither the TIP of the accused persons were conducted, as claimed in the reply, nor any call details of the accused persons were ever examined or filed on record.

4. From the nature of the aforesaid submissions, this court is of the considered opinion that presence of the IO is required with the entire material available with him so that he can clarify the aforesaid important aspects.

5. Accordingly, this application is adjourned. Copy of order be sent to the Ld. APP for the State as well as concerned IO/SHO to clarify the aforesaid aspect and the IO shall also be present with the Ld. APP through video conferencing facility for clarifications and submission on **19.05.2020**. In the meantime, the IO is also directed to verify the medical certificates/documents of the illness of father of accused persons and file a report in this regard on said date.

6. Put up for further hearing on bail application on **19.05.2020**. The Computer Branch is directed to upload copy of this order on the official website for information of all. The concerned Naib Court will also communicate the copy of the order to the concerned IO for compliance.


(Naresh Kumar Laka)
Additional District & Session Judge
South East District, Saket, New Delhi.

नरेश कुमार लाका
NARESH KUMAR LAKA
अतिरिक्त जिला न्यायाधीश-03 (दक्षिणी पूर्वी)
Additional District Judge-03 (South East)
कमरा नं० 316, तिसरी मंजिल
Room No. 316, 3rd Floor
जिला न्यायालय परिसर, साकेत, नई दिल्ली
District Court Complex, New Delhi

**IN THE COURT OF SHRI NARESH KUMAR LAKA
ADDITIONAL DISTRICT & SESSIONS JUDGE (ON DUTY)
SOUTH EAST,
SAKET COURTS, NEW DELHI**

State v. Shiva Soni
FIR NO.562/2019
U/s. : 307/34 IPC
PS : KAL KAJI
Applicant/accused Sh. Shiva Soni

Dated: 16.05.2020

As per the order of learned District & Sessions Judge, South East, bearing No.13 dated 02.05.2020, the undersigned has been deputed on duty to dispose of urgent applications/matters through CISCO Webcam application through Video Conferencing on account of countrywide lockdown owing to Corona virus pandemic disease.

ORDER

Present : Sh. Ashok Kumar, learned Additional Public Prosecutor for the State.
Sh. Shyo Raj Bainsla, learned counsel for the accused/applicant.

The present application has been filed seeking interim bail of the accused on account of spread of pandemic disease of Corona virus. Arguments on the said application heard.

2. It is stated that the accused Shiva has been falsely implicated in the present case and in fact there is no evidence on record and the complainant

Makbool gave only hearsay evidence. It is further stated that the dispute/quarrel was between Kartik and Makbool and there was no role of the accused Shiva. It is also claimed that the injured, namely, Saif has already been discharged long back on 09.11.2019 and he is stable and no useful purpose would be served to keep the accused behind bar unless the charges stand proved against him. It is vehemently stated that no weapon of offence has been recovered and even there is a contradiction on the point of wearing Kurta cloth of Kartik and other accused.

3. Next, it is submitted that the injuries, if any, was allegedly inflicted by accused Aman, juvenile who has already been granted bail and when the accused Shiva has a very limited role, he is entitled to grant bail in view of the judgment of Hon'ble High Court of Punjab which has been read over during the course of argument.

4. The counsel for the accused further stated that the accused is in custody for more than 6 months and apart from the merits of the case, he is also entitled to be released on bail on medical ground since he is suffering from serious skin disease and he has very lesser immunity and there are chances of getting infection from the COVID-19 disease in the over-crowded prison. It is urged that the accused is not involved in any other case and in view of the Guidelines/Order/Minutes of the Meeting dated 18.04.2020 held by the Hon'ble High Court of Delhi, the accused is entitled to be released on interim bail, at least.

5. On the other hand, Ld. Additional Public Prosecutor for the State



vehemently opposed the present bail application and stated that the injured/victim was inflicted five times serious knife injuries on the chest which is vital part and the accused has been captured in the CCTV camera along with other accused persons and as such, there is direct evidence available on record.

6. He further stated that the guidelines of the Hon'ble High Court of Delhi for grant of interim bail are not applicable to the present accused who is involved in an offence which is punishable for more than 7 years.

7. I have heard arguments earlier also on this application and since the reply of the IO was deficient in the absence of version of the injured victim Saif, he was directed to file a second reply and accordingly, a second/revised reply has been received from the IO.

8. In the said reply, the version of the injured/victim Saif has been disclosed and after reading the said version, it is clear that there are various imputations/allegations against the accused Shiva showing his direct involvement in the commission of alleged offence. Moreover, the accused might not have directly inflicted any injury from the knife, as claimed by his counsel, but from the reply, it is revealed that he had instigated the other accused, namely, Aman, juvenile for causing the injuries and the said injuries were inflicted for as many as 5 times leaving deep wounds/lacerated injuries on the chest, which is the vital part of the victim/injured. It is a settled position of law that as per Section 34 IPC, a joint liability can be fastened upon other persons who instigate or assist or aid the other accused persons in

commissions of the offences.


9. Accordingly, this court is of the considered opinion that the accused is not entitled to be released from custody keeping in mind the seriousness of the offence punishable under Section 307 IPC is concerned, unless the material witnesses are examined in Court, lest there may be a chance of influencing the witnesses or tampering with the evidence.

10. As far as the ground for release of accused on his medical condition is concerned, the learned counsel for the accused vehemently argued that accused is suffering from acute skin disease which is causing lesser immunity of the applicant and as such, he is covered as per Item No. 4 of the Minutes of Meetings held on 18.04.2020 by Hon'ble High Court of Delhi to be released.

11. In the said Minutes of the Meeting, which was held between Hon'ble Ms. Justice Hima Kohli, High Court of Delhi, Executive Secretary, DLSA, Sr. Officers of the Government of NCT and the DG (Prison) it was noted at Item No.4 that the under-trials having lesser immunity and prone to getting infected by COVID-19 can also be released if such under trials is in custody for a period of six months plus and facing the trial in a case punishable upto 10 years or upto life. But from the perusal of the said Guidelines/Minutes of the Meeting, it is seen that the said criteria is applicable to the persons who are suffering from HIV+, Cancer, chronic kidney dysfunction requiring dialyses, hepatitis B or C, Asthma and T.B. In the instant case, the accused is not suffering from any of such disease and the claim of having lesser

immunity relating to the skin disease is not covered within the said criteria and in fact the word "lesser immunity" refers to the aforesaid diseases like Cancer, T.B. HIV+, etc. Therefore, this Court is of the opinion that the said Minutes of Meetings do not apply to the accused for releasing him from the custody.

12. In the light of the aforesaid discussion, seriousness of the offence and the aforesaid non-applicability of the Guidelines of the Hon'ble High Court of Delhi, the present application is dismissed. Copy of the order be sent to the concerned Jail Superintendent for information of the accused/applicant. The Computer Branch is also directed to upload the copy of the order on the official website of the South-East District, Saket Courts, New Delhi.


(NARESH KUMAR LAKA)
Additional District Judge-03
South-East District, Saket Courts,
New Delhi/16.05.2020

नरेश कुमार लाका
NARESH KUMAR LAKA
अतिरिक्त जिला न्यायाधीश-03 (दक्षिणी पूर्वी)
Additional District Judge-03 (South East)
कमरा नं० 358, सिलाही भवन
Room No. 358, 3rd Floor
दिल्ली न्यायाधीश न्यायालय
District Court Complex

नरेश कुमार लाका
NARESH KUMAR LAKA
अतिरिक्त जिला एवं सत्र न्यायाधीश (दक्षिण पूर्व)
Additional District & Session Judge (South East)
कमरा नं० 310, सिविल कोर्ट
Block No. 310, Civil Court
जिला न्यायालय परिसर, नई दिल्ली
District Court Complex, New Delhi

**IN THE COURT OF SH. NARESH KUMAR LAKA
ADDITIONAL DISTRICT & SESSION JUDGE (ON DUTY)
SOUTH EAST,
SAKET COURTS, NEW DELHI**

CS No. 1688/18

In the matter of:

Bhagwan Sahai

.....Plaintiff

vs.

Ram Dayal

.....Defendant

Dated: 16.05.2020

As per the order of Ld. District & Sessions Judge, South-East bearing no. 13 dated 02.05.2020, the undersigned is deputed on duty to dispose of urgent applications/matters through CISCO Webcam App via Video Conferencing on account of countrywide lockdown owing to Coronavirus pandemic disease. Accordingly hearing has been conducted through video conferring on the aforesaid app.

Present: Sh. Rajiv Singh, Ld. Counsel for the plaintiff.
Ms. Kanika Hooda, Ld. Counsel for the defendant no.2.
Sh. Sunil Kumar, Engineer on behalf of the BSES.

The present application was filed seeking electricity connection from the BSES. A reply has been received from BSES. The same is opposed by the counsel for defendant no.2. However, now the counsel for the plaintiff stated that the electricity supply has already been provided by the BSES. Therefore, he wants to withdraw the present application.



2. The counsel for the defendant no. 2 leveled various allegations about filing of this application. The defendants are at liberty to move appropriate application or suit as per law. When the plaintiff wants to withdraw his application, he cannot be prevented to do so.

3. Accordingly, the application of the plaintiff is dismissed as withdrawn. The proceedings be sent to the concerned court for placing it in the appropriate suit. The Computer Branch is directed to upload copy of this order on the website for information of all.



(Naresh Kumar Laka)
Additional District & Session Judge
South East District, Saket, New Delhi.

नरेश कुमार लका
NARESH KUMAR LAKA
अतिरिक्त जिला न्यायाधीश (दक्षिण पूर्व)
Additional District Judge (South East)
कमरा नं० 316, तिसरी मंजिल
Room No. 316, 3rd Floor
जिला न्यायालय बिल्डिंग, साकेत, नई दिल्ली
District Court Complex, New Delhi

**IN THE COURT OF SH. NARESH KUMAR LAKA
ADDITIONAL DISTRICT & SESSION JUDGE - 03, SOUTH
EAST,
SAKET COURTS, NEW DELHI**

CS No. _____/2020

Pinki Tripathi

.....Plaintiff

vs.

SDMC & Ors.

..... Defendant

As per the order of Ld. District & Sessions Judge, South-East bearing no. 13 dated 02.05.2020, the undersigned is deputed on duty to dispose of urgent applications/matters through CISCO Webcam App via Video Conferencing on account of countrywide lockdown owing to Coronavirus pandemic disease. Accordingly hearing has been conducted through video conferring on the aforesaid app.

16.05.2020

Fresh suit along with stay application has been filed through electronic mode. Original be filed, if not filed earlier in the filing Section. It be checked and registered.

Present: Sh. Rahul Tripathi, Ld. Counsel for the plaintiff.

Heard.


2. Ld. Counsel for the plaintiff prayed for passing ex-parte stay on the ground that construction is going on at the spot.

3. This court raised a query as to who is the owner of the property where the construction is going on, to which Ld. counsel for the plaintiff stated that it is a government land. Accordingly, this court is not inclined to grant the stay without satisfying the locus standi of the

plaintiff to file the present suit. However, since the construction is alleged to be going on a government land, summons of the suit be sent to the defendants and SDMC along with stay application to file an action taken report/written statement on 20.05.2020.

4. On account of nationwide lockdown, usual functioning of the courts is restricted and even the court staffs are not coming in the court premises though they are performing their duties through video conferencing. Therefore, the plaintiff is directed to serve the copy of the order, copy of the suit, attached document and the stay application physically as well as electronic mode (What's APP & Email) at his own and it will be treated as due compliance of service of summons as per law.

5. The In-charge, Computer Branch is directed to upload copy of this order on the website for information of all. Put up for further hearing on the stay application on **20.05.2020** before the concerned Judge on duty.


(Naresh Kumar Laka)
Additional District & Session Judge-03
South East District, Saket, New Delhi.

नरेश कुमार लाका
NARESH KUMAR LAKA
अतिरिक्त जिला न्यायाधीश-03 (दक्षिण पूर्वी)
Additional District Judge-03 (South East)
कमरा नं० 318, तीसरी मंजिल
Room No. 318, 3rd Floor
जिला न्यायालय परिसर, साकेत, नई दिल्ली
District Court Complex, New Delhi

नरेश कुमार लका
NARESH KUMAR LAKA
अतिरिक्त जिला न्यायाधीश-03 (दक्षिण पूर्व)
Additional District Judge-03 (South East)
कक्ष नं. 310, 3rd Floor
Room No. 310, 3rd Floor
जिला न्यायालय परिसर, सकेत नई दिल्ली
District Court Complex, New Delhi

**IN THE COURT OF SH. NARESH KUMAR LAKA
ADDITIONAL DISTRICT & SESSION JUDGE (ON DUTY)
SOUTH EAST
SAKET COURTS, NEW DELHI**

CS No./2020

In the matter of:

Rajat Wadhwa

.....Plaintiff

VS.

DLF Luxury Homes Ltd. & Ors.

.....Defendant

Dated: 16.05.2020

As per the order of Id. District & Sessions Judge, South-East bearing no. 13 dated 02.05.2020, the undersigned is deputed on duty to dispose of urgent applications/matters through CISCO Webcam App via Video Conferencing on account of countrywide lockdown owing to Coronavirus pandemic disease. Accordingly hearing has been conducted through video conferring on the aforesaid app.

This suit and accompanying documents have been received in electronic form through email. Original thereof be filed with requisite court fees, at the earliest in the filing section. The Ahlmad is directed to check and register as per rules.

Present: Plaintiff in person (Advocate himself).
Ms. Meghna Mishra, Ld. Counsel for the defendant No.1.
None for the defendant no.2.

The present suit was filed by the plaintiff against the defendant no.1 and 2 by claiming that the defendant no.1 i.e. DLF Luxury Homes Ltd. is a builder and the defendant no.2 is an owner of one of the flats bearing No.QCA-001, DLF Queens Court, E Block, Greater Kailash-II, New Delhi in the said complex which was developed by the defendant no.1 or its sister

concerns. Arguments on the application under Order 39 Rule 1 & 2 CPC filed by plaintiff and on the application under Order 39 Rule 1 & 2 r/w Section 151 CPC filed on behalf of defendant no.1 heard at length. The stand of the defendant no.2 is not clear in his absence.

2. It is the case of the plaintiff that the flat in question was let out by the defendant no.2 to the plaintiff w.e.f. 01.03.2020 at the monthly rent of Rs.2,25,000 excluding maintenance charges for 11 months. The said flat was agreed to be used as residence-cum-office by the plaintiff being an advocate by profession. It is claimed that the defendant no.2/owner of the flat agreed to pay maintenance charges for the month of February, 2020. The defendant no.1 is responsible for maintenance of entire complex which includes the open lawn, kids play area, swimming pool, gymnasium and common areas.

3. It is alleged that the defendant no.1 has been charging Rs.70,000 per month towards maintenance charges which is unexplained, arbitrary and in excess. The plaintiff also challenged the manner of charging such huge amount by saying that as per the Delhi Apartment Ownership Act, the developer has to hand over the maintenance assignment to the RWA which was supposed to be done within 6 months from the date of giving possession to the owners but it is alleged that it has not been done for the last 10 years.

4. The plaintiff also disclosed that the defendant no.1 has engaged 10-12 security guards and 10 other permanent staff for maintenance and other duties. With effect from 25.03.2020 on account of countrywide lockdown owing to coronavirus (Covid 19) pandemic, the defendant no.1 has reduced the security guards to 2-3 and 1/4th strength of maintenance staff and also

shut down the swimming pool as well as gymnasiums facilities unilaterally. However, on 03.05.2020, the Government of NCT of Delhi issued a notification whereby the self employed persons have been allowed to operate from their office/home but on 04.05.2020 the officials of defendant no.1 illegally restrained the entry of staff of the plaintiff despite informing them about the said notification of Government of NCT of Delhi.

5. It is also claimed that the plaintiff has already taken all the precautions of social distancing for his safety and of others but on 04.05.2020 an email was sent by the defendant no.1 to the defendant no.2 (CC to plaintiff) demanding payment of the maintenance charges, both for the present and past period and failing which it was threatened to disconnect the electricity and water supply.

6. The plaintiff further claimed that as regards the old dues, the plaintiff has no liability and it is the matter between the defendant no.1 and defendant no.2. The plaintiff also stated that he had already paid the maintenance and electricity charges for the month of March, 2020 but he disputes payment of maintenance charges from April, 2020 onwards being arbitrary and illegal. However, the plaintiff agreed to pay the electricity charges.

7. By way of present suit, the plaintiff has claimed damages of Rs.10 lakhs and injunction to the effect that the staff of the plaintiff should be provided egress and ingress in the office of plaintiff and that the defendant no.1 may be restrained to disconnect the electricity and water supply and to demand the arbitrary maintenance charges.

8. On the other hand, the defendant No.1 contested the present suit

understanding between the owner (Defendant no.2) and the defendant no.1 but it is also a settled position of law that a tenant or occupant of a house cannot be denied the basic facility i.e. electricity and water supply. Therefore, although the plaintiff has directly no say to challenge the maintenance charges but party his relief for apprehension of disconnection of essential supplies and obstruction in the entry of his staff/associate is maintainable.

13. On the one hand, the defendant no.1 is demanding the maintenance charges on the plea of making payment of wages to all the workers whether, they are physically coming to work or not, on the other hand, the plaintiff is also deprived of facilities like swimming pool, gymnasiums, etc. but at the same time the plaintiff is also required to pay such hefty charges, may be on behalf of defendant no.2 or himself as per their own understanding, without using the said facility. Be that as it may, this court is of the considered opinion that the present scenario is covered within the *force majeure* clause (i.e, Act of God) which is one of the fundamental rules of the contract law. The position of the plaintiff is also at a weaker side in comparison to the defendant's standing. Therefore, in order to strike a balance between the competing interests of both the parties and to address the urgent issues at this stage, this Court directs the plaintiff or the defendant no.2 to pay 50% of the maintenance charges for the month of April, 2020 onwards till the continuance of lock down period in the area in question along with full amount of the electricity and water charges as and when stand due.

14. The defendant no.1 or his officials are restrained to obstruct the entry/exit of one of the Junior Associates and staffs of the plaintiff in the flat in question subject to the aforesaid safety measures to be adopted by

and it is claimed that there is no privity of contract between the plaintiff and the defendant No.1 and the disputes, if any, is in the process to be resolved between the defendant No.1 and defendant No.2 towards the past dues.

9. It is also stated that the plaintiff cannot be allowed to enjoy the facilities especially the electricity and water charges unless he pays the maintenances charges and the charges towards electricity and water facility because the defendant No.1 is under an obligation to pay the salary to its employees as per the instructions issued by the Government during the lock down period also. It is also stated that the reduction of the staff was done as a precaution to prevent the spreading of the corona virus disease and to follow the norms of social distancing, as advised by the Government.

10. Counsel for the defendant No.1 also stated that the defendant No.1 has no objection for permitting the limited staff of the plaintiff to access his office subject to observance of the safety measures i.e. thermal scanning and application of sanitization.

11. The plaintiff also stated that he is ready to do the same and instead of calling all of his staff and associates, he will call only one of his junior and one staff at his office/flat for doing the essential work.

12. After going through the submissions of both the parties, this Court is of the considered opinion that on account of spread of Corona virus pandemic disease worldwide including India, everyone is facing one or the other problems. Although prima facie, the plaintiff has no locus standi to raise the dispute about maintenance charges, which is a contractual

the plaintiff. The plaintiff also raised objection on the maintainability of the application filed by the defendant for want of any counter-claim or suit. In my opinion, the plaintiff cannot be allowed to enjoy his services in such a posh accommodation by putting all the burden on the defendant and by stepping into the shoes of defendant no.2, the plaintiff is liable to pay the essential charges. With the aforesaid directions, the present interim application as well as the application of the defendant under Order 39 Rule 1 & 2 CPC read with 151 CPC are disposed of. However, this order will be subject to final decision on merits of the case.

15. File be put up before the Ld. District & Sessions Judge, South East for assignment to appropriate court on 09.06.2020. The Computer Branch is directed to upload copy of this order on the website for information of the parties.



(Naresh Kumar Laka)
Additional District & Session Judge-03
South East District, Saket, New Delhi.

नरेश कुमार लाका
NARESH KUMAR LAKA
दक्षिण पूर्व जिला न्यायालय-03 (दक्षिण पूर्व)
Additional District Judge-03 (South East)
कमरा नं० 316, तीसरी मंजिल
Room No. 316, 3rd Floor
जिला न्यायालय परिसर, साकेत, नई दिल्ली
District Court Complex, New Delhi