

BAIL APPLICATION

**FIR No. :227/2020
PS: Kotwali
STATE v. Ravinder
U/S: 376/506 IPC**

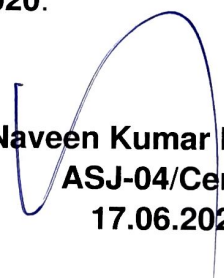
17.06.2020.

**Undersigned is also working as 1st link of the
court of Sh. Anuj Aggarwal, Ld. ASJ-03, Tis Hazari.**

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State.
Mr. Sharad Malhotra, learned counsel for the
applicant.
Victim in person.

Learned counsel for the applicant has stated that he
has been engaged today morning itself and earlier counsel is
changed now.

At joint request, the date suitable to both the sides
is given for hearing. Put up on **22/06/2020**.


**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
17.06.2020**

BAIL APPLICATION

FIR No. :Not Known
PS: Nabi Karim
STATE v. Mohd. Istekhar & Ors.
U/S:Not Known

17.06.2020.


Undersigned is also working as 1st link of the court of Sh. Anuj Aggarwal, Ld. ASJ-03, Tis Hazari.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State.
Mr. Muntazir Mehdi, learned counsel for applicant.

Issue notice to the IO as well as to the victim / prosetorix through IO for the next date of hearing.

Prosecutrix is at liberty to appear in person or through electronic mode. IO is directed to provide all necessary assistance to the prosecutrix for such hearing.

Put up on **20/06/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/THC
17.06.2020

BAIL APPLICATION

**FIR No. :191/19
PS: Karol Bagh
STATE v. Dev Arjun
U/S: 302/34 IPC**

17.06.2020.

**Undersigned is also working as 1st link of the
court of Sh. Anuj Aggarwal, Ld. ASJ-03, Tis Hazari.**

**Present: Sh. Pawan Kumar, Ld. Addl. PP for the State.
Mr. Vikram Chaudhary, learned counsel for
applicant through VC.**

Reply by the IO by the next date of hearing.

**Put up for, reply, arguments and appropriate orders
with file for 20/06/2020.**

**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
17.06.2020**

: 1 :

INTERIM BAIL APPLICATION

FIR No. :251/19
PS: Sarai Rohilla
STATE v. Dinesh @ Dhanna
U/S:341, 307, 34 IPC & 25, 27, 54, 59 of A.Act.

17.06.2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State.
Mr. Vivek Singh, learned counsel for Accused
through VC.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020 and 18.05.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority, present application is taken up.*

2. Reply filed by the IO through electronic mode.

3. Arguments heard.

4. As it is not the case of accused that he himself is unwell , thus case of the accused is not covered under directions as passed by Hon'ble High Court **as there is involvement in other matter i.e. FIR 133/2019 as reported by IO.**

5. But it is also the direction by Hon'ble HC that even otherwise such applications are to be considered on merit . Accordingly Heard on merit.

: 2 :

6. It is argued on merit by the learned counsel for the applicant / accused that he is aged about 22 years and needs better diet to boost his immunity system as he is weak. It is further stated that he is permanent resident of Delhi. There is no chance of absconding.

7. In reply, it is stated that no sufficient reason given for interim bail. Further, it is stated that the offence is serious in nature.

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

9. In the jail, it is the duty of concerned Jail Superintendent to provide diet as per the jail rules to every inmate. This cannot be considered as the sufficient ground to grant interim bail having regard to the facts and circumstances of the present case.

10. Thus, on merit this court is not inclined to grant interim bail as prayed for. With these observations the present application is disposed off as dismissed. Copy of order be given dasti.

11. The present application stands disposed off accordingly. Both sides are at liberty to collect the order dasti or through electronic mode.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
Central District/17.06.2020

BAIL APPLICATION

FIR No. : 134/2015

PS: Lahori Gate

STATE v. Tahir Hussain

U/S: 395, 397, 412, 34 IPC & 25, 27, 54, 59 A. Act

17.06.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. Iqbal Khan, Ld. Counsel for applicant through VC.

An application for extension of interim bail is filed by accused through counsel.

At this stage, it is pointed out by counsel for accused that after filing of such application, Hon'ble High Court of Delhi in its full bench order dated 15.06.2020 in W.P.(C) 3037/2020 titled as "Court on its own motion v. state & Ors. in re. *Extension of Interim Orders*, stated that " In view of the above, we hereby further extend the implementation of the directions contained in our order dated 25th March, 2020 and 15th May, 2020 till 15th July, 2020 with the same terms and conditions."

In view of the same, learned counsel for accused seeks liberty to withdraw the present application as prayer sought in the same is already allowed by high court till 15.07.2020.

Heard. Allowed.

In view of above, present application is disposed of as withdrawn.

Copy of this order be given dasti to counsel for applicant or through electronic mode.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
17.06.2020

BAIL APPLICATION

FIR No. : 419/2016

PS: Sarai Rohilla

State v Jatan

U/S: 302, 34 IPC

17.06.2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State.
Mr. Sachin Kumar Jain, learned LAC for applicant /
accused through VC.

1. *Directions are given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020, Revised Advisory Protocol dated 30.03.2020 by Ld. District & Sessions Judge (HQ) read with other directions from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020 and 18.05.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority. Accordingly, present application is taken up.*

2. As per minutes of meeting dated 18.05.2020 of Hon'ble High Court, interim bail application as per the criteria given by Hon'ble HC in above mentioned minutes, such application is to be moved by Ld. Legal Aid Counsel *alongwith* copy of custody warrant. Perusal of the record reflects that such application is duly accompanied by copy of custody warrant as well as character certificate issued by the concerned Jail Superintendent.

3. **As per minutes of meeting dated 18.05.2020 of Hon'ble High Court, IO / SHO concerned to file reply, including on the following aspect apart from any other point which IO wants to**

raise:-

(i) Report about Previous **conviction**, if any, of present accused/Applicant

(ii) Further, (in view of direction by Hon'ble HC) ,a report that present accused is **not involved**, in any other case;

(iii) Date, since when accused is in JC in present case

(iv) What are **all** the Offences under IPC or other law, which are alleged against present accused in present case .

4. As such, issue notice of present application to the IO/ SHO concerned.

5. Further, in view of directions passed, copy of this order be sent to SHO/IO concerned **through Nodal Officer Insp. Harkesh Gaba mobile No.: 9811889555 (North District)**. The concerned IO/ SHO to file its reply through Nodal officers, preferably in electronic form/email ,as per the directions already issued.

6. **Counsel for accused is advised to collect the order online through electronic mode or otherwise dasti as requested.**

7. **Put up for report, arguments and further appropriate orders on 20.06.2020, preferably through V.C.**

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
Central District
17.06.2020

: 1 :

INTERIM BAIL APPLICATION

FIR No: 415/15
PS: Kotwali
State Vs Sunil Rathore
U/s : 395, 397, 365, 201, 412, 120B IPC

17/06/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State.
Mr. Ravinder Aggrawal, learned counsel for
Accused through VC.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020 and 18.05.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority, present application is taken up.*

2. Reply filed by the IO.

3. Arguments heard.

4. As it is not the case of accused that he himself is unwell, thus case of the accused is not covered under directions as passed by Hon'ble High Court dated 18/04/2020.

5. But it is also the direction by Hon'ble HC that even otherwise such applications are to be considered on merit . Accordingly Heard on merit.

6. It is argued that co-accused Chander Pal and Lalit are granted interim bail recently. It is further claimed that accused case is covered under directions of the Hon'ble High Court dated 18/05/2020. The case is at the stage of

FIR No: 415/15; PS: Kotwali; State Vs Sunil Rathore; U/s : 395, 397, 365, 201, 412, 120B IPC

prosecution evidence and he is in JC for the last 5 years; that he has wife and one minor child aged about 7 years; he belongs to a poor family and there is financial crisis due to judicial custody of the accused for long; that he had good conduct in jail. As such, it is prayed that he be granted interim bail for 45 days.

7. Reply filed by the State in which it is stated that there is no previous conviction record as per record. On merit present application is opposed stating that the offence is heinous in nature. That no sufficient ground is made out for granting interim bail. It is further stated that he is not covered under the criteria as prescribed by the High Court as it not the case of the accused that he himself is not well which is the requirement of the **concerned criteria dated 18/04/2020**. It is further pointed out that his interim bail was already dismissed by this court vide order dated 18/03/2020 and again on 05/05/2020 from the hon'ble court of Mr. Mohd. Farukh, learned ASJ.

8. I find force in the arguments of the learned Addl.PP. It appears that the bail to the co-accused was granted on merit and the facts of those applications. Further in any case the minutes of meeting of the Hon'ble High Court dated 18/05/2020 do not even deal with the offences of the present nature. Infact, the same is dealt by minutes dated 18/04/2020 as already noted above. On merit, having regard to the nature of offence and the role of the accused and that prosecution evidence is not yet over, this court is not inclined to grant the interim bail. **Further interim bail application of present accused, as per report of IO rejected twice recently and same is suppressed by the accused in the present application.** With these observations the present application is disposed off as dismissed. Copy of order be given dasti.

: 3 :

9. The present application stands disposed off accordingly. Both side are at liberty to collect the order dasti or through electronic mode.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
Central District/17.06.2020

INTERIM BAIL APPLICATION

FIR No. :27/2014
PS: Jama Masjid
STATE v. Abdul Salam @ Wasim
U/S: 364A, 368, 394, 397, 412, 34 IPC

17.06.2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State.
Mr. Rashid Hashmi, learned counsel for Accused through VC.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020 and 18.05.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority, present application is taken up.*
2. Reply filed by the IO.
3. Arguments heard.
4. Case of the accused is not covered under directions as passed by Hon'ble High Court as it is not the case of the accused that he himself is suffering from any ailment as noted in minutes dated 18/04/2020 of Hon'ble High Court.
5. But it is also the direction by Hon'ble HC that even otherwise such applications are to be considered on merit . Accordingly Heard on merit.

6. It is argued on merit by the learned counsel for the applicant / accused that he in custody since February, 2014; that there is possibility of infection in Rohini Jail; that co-accused Irfan is already granted interim bail; that parents of the accused are old and there is no body to look after them; that he is not a previous convict. As such, it is payed that he be granted interim bail for 45 days.

7. In reply, as also argued by the learned Addl.PP for the state, he is involved in five cases of similar nature. Further, two younger brothers of the accused aged about 25 & 22 years are there for taking care of the parents. Further, it is stated that hte offence in serious in nature.

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

9. The offence in question is serious in nature. Even otherwise, no sufficient ground to grant interim bail. It may further be noted that it is not the case of the accused that anybody in barrack, at Rohini Jail is infected with such infection.

10. Thus, on merit this court is not inclined to grant interim bail as prayed for. With these observations the present application is disposed off as dismissed. Both side are at liberty to collect the order dasti or through electronic mode.

11. It may be noted that it is the duty of the concerned Jail Superintendent to ensure safety of the accused from present pandemic situation as per the guidelines issued time to time.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
Central District/17.06.2020

: 1 :

INTERIM BAIL APPLICATION

FIR No. :02/2014
PS: Jama Masjid
STATE v. Abdul Salam @ Wasim
U/S: 302, 394, 411, 34 IPC

17.06.2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State.
Mr. Rashid Hashmi, learned counsel for Accused through VC.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020 and 18.05.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority, present application is taken up.*

2. Reply filed by the IO.

3. Arguments heard.

4. Case of the accused is not covered under directions as passed by Hon'ble High Court **as there is involvement in other matter as reported by IO.**

5. But it is also the direction by Hon'ble HC that even otherwise such applications are to be considered on merit . Accordingly Heard on merit.

6. It is argued on merit by the learned counsel for the applicant / accused that he in custody since

FIR No. :02/2014; PS: Jama Masjid; STATE v. Abdul Salam @ Wasim; U/S: 302, 394, 411, 34 IPC

: 2 :

February,2014; that there is possibility of infection in Rohini Jail; that co-accused is already granted interim bail; that parents of the accused are old and there is no body to look after them; that he is not a previous convict. As such, it is payed that he be granted interim bail for 45 days.

7. In reply, as also argued by the learned Addl.PP for the state, he is involved in five cases of similar nature. It is further revealed that co-accused Adnan is not yet granted bail and it is wrongly claimed so. Further, it is stated that hte offence in serious in nature.

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

9. Such present application wrongly states that co-accused granted interim bail. Even otherwise, the offence in question is serious in nature. Even otherwise, no sufficient ground to grant interim bail. It may further be noted that it is not the case of the accused that anybody in barrack, at Rohini Jail is infected with such infection.

10. Thus, on merit this court is not inclined to grant interim bail as prayed for. With these observations the present application is disposed off as dismissed. Both side are at liberty to collect the order dasti or through electronic mode.

11. It may be noted that it is the duty of the concerned Jail Superintendent to ensure safety of the accused from present pandemic situation as per the guidelines issued time to time.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
Central District/17.06.2020

BAIL APPLICATION

**FIR No. :292/2014
PS: Rajinder Nagar
STATE v. Suraj
U/S: 302, 392, 397, 411, 120B, 34 IPC**

17.06.2020.

**Undersigned is also working as 1st link of the
court of Sh. Anuj Aggarwal, Ld. ASJ-03, Tis Hazari.**

**Present: Sh. Pawan Kumar, Ld. Addl. PP for the State.
Learned counsel for applicant through VC.**

Arguments heard.

Put up for orders at 4:00 PM.

**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
17.06.2020**

At 4:00 PM

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State.

No time left.

Put up for appropriate orders on 18/06/2020.

**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
17.06.2020**

BAIL APPLICATION

FIR No. :01/19
PS: Darya Ganj
STATE v. Tarun @ Puchi
U/S: 392, 397, 34 IPC

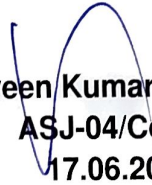
17.06.2020.

Undersigned is also working as 1st link of the
court of Sh. Anuj Aggarwal, Ld. ASJ-03, Tis Hazari.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State.
Mr. K.S.Verma, learned counsel for the applicant /
accused through VC.

Issue notice to IO for the next date of hearing.

Put up for, reply, arguments and appropriate orders
with file for 20/06/2020.


(Naveen Kumar Kashyap)
ASJ-04/Central/THC
17.06.2020

INTERIM BAIL APPLICATION

FIR No: 415/15
PS: Kotwali
State Vs Sonu
U/s : 395, 397, 365, 201, 412, 120B IPC & 25/54/59
Arms Act

17/06/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State.
Mr. Dewan Singh, learned counsel for
Accused through VC.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020 and 18.05.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority, present application is taken up.*

2. Reply filed by the IO.

3. Arguments heard.

4. As it is not the case of accused that he himself is unwell, thus case of the accused is not covered under directions as passed by Hon'ble High Court dated 18/04/2020.

5. But it is also the direction by Hon'ble HC that even otherwise such applications are to be considered on merit. Accordingly Heard on merit.

6. It is argued that co-accused Chander Pal and Lalit are granted interim bail recently. It is further claimed that accused case is covered under directions of the Hon'ble High Court dated 18/05/2020. The case is at the stage of

prosecution evidence and he is in JC for long; that he is no more required for investigation, he has deep roots in society; he is first time offender; As such, it is prayed that he be granted interim bail for 45 days.

7. Reply filed by the State in which it is stated that there is no previous conviction record as per record. On merit present application is opposed stating that the offence is heinous in nature. That no sufficient ground is made out for granting interim bail. It is further stated that he is not covered under the criteria as prescribed by the High Court as it not the case of the accused that he himself is not well which is the requirement of the **concerned criteria dated 18/04/2020**.

8. I find force in the arguments of the learned Addl.PP. It appears that the bail to the co-accused was granted on merit and the facts of those applications. Further in any case the minutes of meeting of the Hon'ble High Court dated 18/05/2020 do not even deal with the offences of the present nature. Infact, the same is dealt by minutes dated 18/04/2020 as already noted above. On merit, having regard to the nature of offence and the role of the accused and that prosecution evidence is not yet over, this court is not inclined to grant the interim bail. With these observations the present application is disposed off as dismissed. Copy of order be given dasti.

9. The present application stands disposed off accordingly. Both side are at liberty to collect the order dasti or through electronic mode.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
Central District/17.06.2020

BAIL APPLICATION

**FIR No.: 182/2017
PS: Kamla Market
STATE v. Govind
U/S: 395, 397, 412, 34 IPC & 25, 29 Arms Act**

17.06.2020.

**Undersigned is also working as 1st link of the
court of Sh. Anuj Aggarwal, Ld. ASJ-03, Tis Hazari.**

**Present: Sh. Pawan Kumar, Ld. Addl. PP for the State.
Learned counsel for applicant through VC.**

Reply filed by the IO.

As it is pointed out by the learned Addl. PP that IO
has sought sometime to verify the medical papers.

Heard.

As such, put up for filing of verification report on the
medical documents, further arguments, appropriate order on
22/06/2020.

**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
17.06.2020**

INTERIM BAIL APPLICATION

FIR No: 415/15
PS: Kotwali
State Vs Sanjeev
U/s : 395, 397, 365, 201, 412, 120B IPC

17/06/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State.
Mr. Ravinder Aggrawal, learned counsel for
Accused through VC.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020 and 18.05.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority, present application is taken up.*
2. Reply filed by the IO.
3. Arguments heard.
4. As it is not the case of accused that he himself is unwell, thus case of the accused is not covered under directions as passed by Hon'ble High Court dated 18/04/2020.
5. But it is also the direction by Hon'ble HC that even otherwise such applications are to be considered on merit . Accordingly Heard on merit.
6. It is argued that co-accused Chander Pal and Lalit are granted interim bail recently. It is further claimed that accused case is covered under directions of the Hon'ble High Court dated 18/05/2020. The case is at the stage of

: 2 :

prosecution evidence and he is in JC for the last 5 years; that he has wife and one minor child aged about 6 years; he belongs to a poor family and there is financial crisis due to judicial custody of the accused for long; that he had good conduct in jail. As such, it is prayed that he be granted interim bail for 45 days.

7. Reply filed by the State in which it is stated that there is no previous conviction record as per record. On merit present application is opposed stating that the offence is heinous in nature. That no sufficient ground is made out for granting interim bail. It is further stated that he is not covered under the criteria as prescribed by the High Court as it not the case of the accused that he himself is not well which is the requirement of the **concerned criteria dated 18/04/2020**.

8. I find force in the arguments of the learned Addl.PP. It appears that the bail to the co-accused was granted on merit and the facts of those applications. Further in any case the minutes of meeting of the Hon'ble High Court dated 18/05/2020 do not even deal with the offences of the present nature. Infact, the same is dealt by minutes dated 18/04/2020 as already noted above. On merit, having regard to the nature of offence and the role of the accused and that prosecution evidence is not yet over, this court is not inclined to grant the interim bail. With these observations the present application is disposed off as dismissed. Copy of order be given dasti.

9. The present application stands disposed off accordingly. Both side are at liberty to collect the order dasti or through electronic mode.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
Central District/17.06.2020

BAIL APPLICATION

**FIR No. : 303/2014
PS: Subzi Mandi
STATE v. Ravi Dhika
U/S: 302, 307, 34 IPC**

17.06.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. Hemant Gulati, Ld. Counsel for applicant through VC.

An application for extension of interim bail is filed by accused through counsel.

It is stated that the surgery of the wife, for which interim bail was granted vide order dated 16/05/2020 for 30 days, is now scheduled for 23/06/2020, as such present application is moved for extension.

At this stage, it is noted that Hon'ble High Court of Delhi in its full bench order dated 15.06.2020 in W.P.(C) 3037/2020 titled as "Court on its own motion v. state & Ors. in re. *Extension of Interim Orders*, stated that " In view of the above, we hereby further extend the implementation of the directions contained in our order dated 25th March, 2020 and 15th May, 2020 till 15th July, 2020 with the same terms and conditions."

In view of the same, there is no need to pass any specific order in the present application for extension. Same is disposed off accordingly.

Copy of this order be given dasti to counsel for applicant or through electronic mode.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
17.06.2020

: 1 :

Bail Application

State Vs Sunil Chhikara
FIR No. 70/2020
PS.: Nabi Karim
U/s: 376, 342 IPC

17.06.2020

Present: Mr. Pawan Kumar Learned Addl. PP for State.
Mr. Pradeep Rana, learned counsel for the
applicant / accused through VC.
Victim in person with IO.

Vide this order, the bail application under section 439 Cr.P.C. on behalf of accused dated 06/06/2020 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

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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 argued that ingredients of section 376 are not satisfied at all; that accused is falsely implicated in the present case; that accused is a law graduate running a business; that there is no criminal record of this accused; that he has roots in the society; that victim is a matured lady of sound mind who was well aware of the consequences of the acts committed by her voluntarily; that there is no need of custodial investigation at all; that present bail is sought u/s 167 (2) Cr.PC; that chargesheet is not yet filed. As such, he be granted regular bail. Even otherwise, it is argued that 90 days have already lapsed and investigation agency failed to file chargesheet; further certain case law also relied by the learned counsel for the accused. It is further argued that earlier regular bail application with alternative prayer of interim bail for 45 days was dismissed on 23/04/2020. Thereafter, application u/s 439 Cr.PC for regular bail was earlier adjourned for 14/05/2020, the same was dismissed as withdrawn from hon'ble High Court on the instructions of the client without any arguments on merit. It is further stated that bail is rule and jail is exception; that there is no chance of tampering with the evidence or absconding. It is further argued that in fact victim married the accused. Further certain documents / letters written by victim including dated 20/01/2020 are also placed on record. Further an affidavit of the victim is also placed on record in supported of contention made by the accused. Further, it is stated that there is cctv

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footage as well as record of the register of the hotel having sign of the victim which also states that there was no pressure or lack of free will on the part of victim. It is further stated that accused wife was also in the same hotel in some other room on the same day and it is highly in probable in such situation the accused against the will of the victim will carry out any such act. It is further stated that, infact, they visited the hotel for amicable settlement of the matter.

On the other hand, it is stated by the victim that relationship with her are made against her free will under deception. That not only that before or after the registration of the FIR, accused is continuously threatening her.

Further, in reply, as also argued by the learned Addl.PP for the State, it is stated that her statement u/s 164 Cr.PC is also recorded where she supported her original allegations. Further, chargesheet is already filed on 10/05/2020 before the Duty MM. It is further stated that there is strong apprehension of threatening the witness and tampering the evidence. As such, present application is strongly opposed.

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

As chargesheet is already filed in May before Duty MM, the ground for statutory bail is not made out.

On merit, it is noted that most of the incidents and physical presence of the accused with the victim is not denied. Further, it may be noted that accused was in a dominating position of employer and admittedly victim was working in his office. Further whether consent of the accused was free on the criteria of 376 IPC or not is a matter of trial and this court cannot go in detail about the same. Further offence is serious in nature. Further, it is initial stage of the case and even the stage of charge have not yet come. Further, there are specific allegations of threat to the victim as pointed out by the victim today in the court. Under these circumstances, having regard to the nature of allegations made and the stage of the present case, this court is not inclined to grant the relief as sought in the

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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.

(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi
17/06/2020.

BAIL APPLICATION

FIR No. :67/2020

PS: Nabi Karim

STATE v. Harish Singh @ Vinay Yadav

U/S: 376 IPC

17.06.2020.

Undersigned is also working as 1st link of the court of Sh. Anuj Aggarwal, Ld. ASJ-03, Tis Hazari.

**Present: Sh. Pawan Kumar, Ld. Addl. PP for the State.
Mr. Kamlesh Kumar, learned counsel for applicant.
IO SI Jayesh Kalal in person.
Victim in person.**

Arguments heard.

Put up for orders at 4:00 PM.

**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
17.06.2020**

At 4:00 PM

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State.

No time left.

Put up for clarification / further arguments, if any, / orders on 18/06/2020.

**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
17.06.2020**