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**INTERIM BAIL APPLICATION**

**State Vs. Mohd. Kadir**  
**FIR No. : 364/2014**  
**PS: Sadar Bazar**  
**U/S: 302 IPC**

**17.10.2020.**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State  
through VC  
Mr.S.N.Shukla, Ld. LAC 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, 18.05.2020 and 20.06.2020 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 as well as Jail Superintendent concerned.

3. Arguments heard.

4. Present application dated 29.09.2020 is filed through Jail Superintendent concerned through DLSA. It is stated that accused is in JC since for more than *two years* (which fact is now even verified by IO in his report).

5. **Further, a report regarding conduct of the accused is also filed by Jail Superintendent Concerned.**

6. Further, a report is filed by IO/SHO concerned. It is further stated that there is no previous conviction / involvement record of such accused. *Further, it is stated that offences alleged against accused is,*

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***under section 302 IPC and case is pending trial.***

7. As per report of Jail Superintendent concerned there is punishment of present accused given in Jail dated 13/06/2018 regarding smoking of *Bidi* and misbehaving with jail staff in this regard. But, it is argued by learned counsel for accused that such punishment is two years old. Further, he has relied upon a judgment of Hon'ble High Court of Delhi dated 11/06/2020 and based on the ration on the same, it is argued that such accused should still be considered under the guidelines of Hon'ble High Court.

8. This court finds force in the arguments of learned counsel for accused. In view of the fact that such punishment is two years old and the ration above mentioned Judgment, reply given by IO and direction by Hon'ble High Court of Delhi, case of the accused is covered under directions as passed by Hon'ble High Court, as mentioned above. Further, accused is in JC since more than *two years* at present.

9. As such, in the above position, facts and circumstances of present case and the directions by Hon'ble High Court, applicant/accused is admitted to interim bail for a period of 45 days from the date of release on furnishing personal bond ***in the sum of Rs. 10,000/- to the satisfaction of the Jail Superintendent concerned. After completion of the interim bail period applicant shall surrender before concerned Jail Superintendent. Necessary intimation be sent to concerned Jail Superintendent accordingly.***

***7.1. In the facts and circumstances of present case and the reply filed by the IO/SHO following conditions are also imposed on present accused for such interim bail :***

- i) Applicant shall not flee from the justice;***
- ii) Applicant shall not tamper with the evidence;***
- iii) Applicant shall not threaten or contact in any manner to the prosecution witnesses ,***
- iv) Applicant shall not leave country without permission;***

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v) Applicant shall convey any change of address immediately to the IO and the court;

vi) Applicant shall also provide his/her mobile number to the IO;

vii) Applicant shall mark his /her attendance before concerned IO (and if IO is not available then to concerned SHO) every alternative /second day through mobile by sharing his/her location with the SHO concerned;

viii) Applicant shall further make a call, preferably by audio plus video mode to concerned IO, (and if IO is not available then to concerned SHO) once a week, preferably on Monday between 10 a.m. to 5 p.m.

ix) Applicant shall keep his / her such mobile number 'Switched On' at all the time , particularly between 8 am to 8 pm everyday.

10. The present application stands disposed off accordingly. Both side are at liberty to collect the order through electronic mode. Further, copy of this order be sent to concerned Superintendent Concerned. Further, copy of this order be given to IO / SHO.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/THC**  
**Central District/17.10.2020**

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## **Bail Application**

**Bail Application No.:1509/2020**  
**State Vs Ritik s/o Lt. Rajesh**  
**FIR No.34/2020**  
**PS.: Karol Bagh**  
**U/s:392, 394, 397, 34 IPC**

**17.10.2020**

**Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.**  
**Mr. S.N. Shukla, learned legal counsel for the applicant / accused through VC.**

Vide this order, the bail application under section 439 Cr.P.C. on behalf of accused dated 24/09/2020 filed through DLSA through Jail Superintendent concerned is disposed off.

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

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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

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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 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

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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

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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 on behalf of applicant that he is in JC since 30/01/2020; that present case involves small amount of Rs.2,000/- only; that he is no more required for the purpose of investigation; that he is sole bread earner of his family; that he is permanent resident of Delhi; that alleged recovery shown by the police is planted one and nothing is recovered from him or at his instance. As such, it is prayed that he be granted interim bail.

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On the other hand, reply filed by the IO as also argued by the learned Addl.PP for the state that injured / victim was attacked with knife in a brutal and planned manner and he was robbed of his belonging including purse; that present accused refused to participate in TIP; that he is the person who actually committed robbery also apart from snatching from the victim. It is further argued that he is involved in similar matters also; that he is likely to commit the similar offence if granted bail; further his involvement in six seven other cases is also attached with the reply. It is further stated that his bail application is already rejected on 10/09/2020 by Bail Duty Session Judge in which same grounds were taken.

I find force in the arguments of learned Addl.PP for the state. His bail application on similar grounds was rejected on 10/09/2020 in which all such grounds were taken; further offence is serious in nature and the manner in which the present offence is committed is nuisance to the society at large. Further, this court do not find any material change in circumstances, as such, this court is not inclined to grant the relief as sought in the present application. Hence, the same 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 through electronic mode. Further a copy of this order be sent to Concerned Jail Superintendent. Further a copy of this order be sent to IO / SHO concerned. Copy of order be uploaded on the website.**

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/Delhi/17/10/2020**

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## **Bail Application**

**Bail Application No.: 1344/2020**  
**State Vs Suhail @ Sunny s/o Farukh**  
**FIR No. 201/2020**  
**PS.:Kamla Market**  
**U/s: 392, 411, 34 IPC**

**17.10.2020**

**Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.**  
**Mr. Ashok Kumar, learned counsel for the applicant / accused through VC.**

Arguments already heard in detail and today the case was fixed for orders.

Vide this order, the bail application under section 439 Cr.P.C. on behalf of accused dated 24/09/2020 filed through counsel is disposed off.

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

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interfered with unless there exist cogent grounds therefore. 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

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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.

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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**

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**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 on behalf of applicant that he is in JC since 30/08/2020; that applicant was coming from his relative house where near the place of occurrence he heard some noise and some people were running towards him and one of them pushed him aside and then complainant and his friend caught hold the present applicant and called the police and the present applicant is involved in present false and

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frivolous case; that he is no more required for the purpose of investigation; no purpose would be served by keeping him in JC. As such, it is prayed that he be granted regular bail.

On the other hand, reply filed by the IO as also argued by the learned Addl.PP for the state that offence in question is nuisance to public at large; that present accused was arrested at the spot by the complainant and his associates; that he is involved in five other criminal cases and is a habitual offender; that he committed the offence by chopping the throat of the complainant and his friend Nandu. As such, the same is opposed.

I find force in the arguments of learned Addl.PP for the state. Investigation is at the initial stage. More importantly, accused was arrested on the spot by the public and complainant and his friend. Further the manner in which the present offence is committed is nuisance to the society at large. As such, this court is not inclined to grant the relief as sought in the present application. Hence, the same 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 through electronic mode. Further a copy of this order be sent to Concerned Jail Superintendent. Further a copy of this order be sent to IO / SHO concerned. Copy of order be uploaded on the website.**

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**(Naveen Kumar Kashyap)**  
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**Bail Application No.: 1344/2020**  
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**IN THE COURT OF SH. NAVEEN KUMAR KASHYAP  
ADDITIONAL SESSIONS JUDGE-04: CENTRAL:  
TIS HAZARI COURTS: DELHI**

**Bail Application No.: 1526/2020**

**State v. Rahul @ Dadu**

**FIR No. : 425/2019**

**PS: Karol Bagh**

**U/S: 307,385,120B,506(2), 201 r/w 34 IPC  
25 & 27 A.Act**

**17.10.2020**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.  
Sh. Fahim Alam, Ld. Counsel for accused through VC.

Vide this order the bail application dated 12.10.2020 filed by accused through counsel is disposed of.

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 submitted on behalf of the accused that he is falsely implicated in the present case. That he is arrested later on and not on the spot of the alleged incidence and that too based on a disclosure statement only on 09.07.2020. That Section 307 IPC is added later on. That investigation is already complete and chargesheet is already filed and accused is no more required for further investigation. That co-accused Ashok has been granted regular bail by Hon'ble High Court vide order dated 24.08.2020. Further, co-accused Bhanu Pratap Singh is granted regular bail by Hon'ble high Court vide order dated 30.08.2020. that role of the present accused is similar in nature. That no recovery is effected from the present accused or at his instance. That application moved by this accused earlier is rejected by learned ASJ vide order dated 16.09.2020. That he is already granted bail in another matter in which he is arrested earlier by the concerned court. That he is a young person of about 22 years old. As such, it is prayed that he be granted regular bail.

On the other hand, it is stated in the detailed reply dated 13.10.2020 filed by SI Shri Narain, as also argued by the learned Addl.PP for the state, that there are serious and specific allegations against the present accused; that role of the present accused is different

from that of other co-accused who are granted regular bail by Hon'ble High Court. That present accused is the person who is the actual assailant in question. That he although refused TIP but he is identified clearly by the complainant during the course of the investigation after such refusal of TIP. He alongwith co-accused Govind fired at the complainant at the instance of conspirator Mahesh. Further, his mobile location is found near the place of incidence on the fateful day of 27.11.2019. It is further stated that there are two other criminal cases against such accused. As such, present bail application is strongly opposed.

I have heard both the sides and gone through the record. It is rightly pointed out by the learned Addl. PP for the State that offence is serious in nature. Further, although it is a matter of record that two of the co-accused are already granted by Hon'ble High Court. But it appears that their role was of conspirators whereas present accused, as per the case of the prosecution actually participated in the offence in question, as such, his role prima facie appears to be different from those accused who are granted regular bail by Hon'ble High Court. Further, his regular bail is recently rejected by learned Sessions Judge on 16.09.2020. 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 through electronic mode. Further a copy of this order be sent to SHO/IO concerned through electronic mode. Copy of this order be sent to Jail Superintendent concerned through electronic mode.**

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Date: 2020.10.17 16:55:53  
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**(Naveen Kumar Kashyap)**  
**Additional Sessions Judge-04**  
**Central/THC/Delhi**  
**17.10.2020**

**Bail Application No.: 1554/2020**

**State v. Mandu**  
FIR no.: 401/2020  
PS: Burari

17.10.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.  
Sh. R.D. Dubey, Ld. Counsel for applicant through VC.

This police station does not fall under the Bail Roster duty. As such, at request, matter be put up before court concerned through filing counter for **19.10.2020**.

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Date: 2020.10.17 16:56:19 +05'30'

**(NAVEEN KUMAR KASHYAP)**  
**Additional Sessions Judge-04/Central**  
**17.10.2020**

**Bail Application No.: 1552/2020**

**State v. Vijay Tiwari @ Ganzek**

FIR no.: 213/2020

PS: Prasad Nagar

U/S: 392/34 IPC

17.10.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.  
Sh. K.K. Singh, Ld. Counsel for accused/applicant Vijay Tiwari through VC.

Reply filed by IO. Copy of the same be supplied to counsel for applicant during course of the day.

Part arguments heard.

**Put up for further arguments and appropriate orders on 22.10.2020.**

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**(NAVEEN KUMAR KASHYAP)**  
**Additional Sessions Judge-04/Central**  
**17.10.2020**

**Bail Application No.: 1408/2020**

**State v. Lalit @ Aniket**

FIR no.:12296/2020

PS: New Rajinder Nagar

17.10.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.  
Sh. Pramod , Ld. Counsel for accused/applicant through VC.

There is some connectivity issue with learned counsel for applicant.

**Put up on physical hearing day i.e. on 21.10.2020.**

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**(NAVEEN KUMAR KASHYAP)**  
**Additional Sessions Judge-04/Central**  
**17.10.2020**

**Bail Matters No.: 1551/2020**  
**State Vs Krishan**  
**FIR No. : 32/2020**  
**PS:Kamla Market**  
**U/s 365, 394, 397, 411, 34 IPC**

**17/10/2020**

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

Fresh bail application dated 15/10/2020 seeking regular bail on behalf of applicant / accused filed through counsel.

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

Put up for reply, arguments and appropriate orders for **22/10/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.10.2020**

**At 12:30 PM**

At this stage, reply filed by the IO. The same is noted. Put up on the date already fixed.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.10.2020**

**Bail Matters No.: 1553/2020**  
**State Vs Amir Singh**  
**FIR No. :191/2020**  
**PS: Rajinder Nagar**  
**U/S: 379 IPC**

**17/10/2020**

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

Fresh bail application on behalf of applicant / accused filed through counsel.

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

Put up for reply, arguments and appropriate orders for **23/10/2020**.

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Date: 2020.10.17 15:33:01  
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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.10.2020**

**Bail Matters No.: 1372/2020**  
**State Vs Tashuvil**  
**FIR No. :11/2020**  
**PS:ODRS**  
**U/S:370 IPC**

**17/10/2020**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.  
Mr. Lalit Kumar Sharma, learned counsel for the applicant through VC.  
IO of the case is also present through VC.

Reply filed by the IO. Further submissions heard from the IO as well as learned Addl.PP for the State. But it appears that there is some connectivity issue from the side of learned counsel for applicant / accused on VC and his voice is breaking.

As such, put up for further arguments and appropriate order on **19/10/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.10.2020**

**Bail Matters No.: 1520/2020**  
**State Vs Nafe Singh**  
**FIR No. :4/2019**  
**PS: Delhi Cantt Railway Station**  
**U/S: 182, 189, 109, 114 IPC**

**17/10/2020**

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

Reply filed by the IO. Copy of the same be supplied to the learned counsel for the applicant through electronic mode during the course of the day.

Part arguments heard in detail.

As per reply filed by the IO accused / applicant is proposed to be kept in column 12 as suspect only.

Put up for further arguments, appropriate orders for **21/10/2020**.

Further, issue fresh notice to IO to appear in person on the next date of hearing alongwith case file as well as earlier case detail which is the basis of registration of the present FIR. Such notice be issued at the earliest.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.10.2020**

**Bail Matters No.:1555/2020**  
**State Vs Abhay Arora**  
**FIR No. :30/2020**  
**PS: Rajinder Nagar**  
**U/S: 307, 452 IPC**

**17/10/2020**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.  
Applicant not present since morning despite repeated calls.  
Mr. R.R. Dua, learned counsel for the applicant / accused through VC.

Put up for **22/10/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.10.2020**

**Bail Matters No.: 1319/2020**  
**State Vs Varun Aggarwal & others**  
**FIR No. :220/2020**  
**PS:Prasad Nagar**  
**U/S: 498A, 406, 34 IPC**

**17/10/2020**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.  
Mr. Manish Gupta, learned counsel for all applicants through VC.  
Further, learned counsel for complainant through VC.

It is stated that certain articles, list of which is sent through VC are handed over by the applicant side to the complainant through IO. But it is stated that there is still dispute regarding jewelry items in question as well as some other items, list of which is given by the complainant to the IO.

As such, put up for further arguments on all these aspect and orders on the present anticipatory bail on **27/10/2020**. Issue notice to IO also to come up with the case file on the next date of hearing. Interim protection, if any, to continue till the next date of hearing only in terms of previous order.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.10.2020**

**Bail Matters No.:1556/2020**  
**State Vs Shailender Prasad**  
**FIR No. : 235/2020**  
**PS: Kamla Market**  
**U/S:452, 324 IPC**

**17/10/2020**

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

This is an application seeking regular bail filed by the applicant through  
counsel.

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

Put up for reply, arguments and appropriate orders for **26/10/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.10.2020**

**Bail Matters No.:1412/2020**  
**State Vs Sadiqeen**  
**FIR No. :210/2020**  
**PS:Sarai Rohilla**

**17/10/2020**

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

Today the case is fixed for orders / clarification. But in para 5 of such bail application, it is claimed that co-accused Ashqeen is granted bail by Learned ASJ vide order dated 23/09/2020. But alongwith such bail application copy of order placed on record at page no.21. But it is not clear regarding which of the co-accused such bail order is passed.

As such, issue notice to IO to file orders relating to bail, if any, regarding to any of the accused in this case for the next date of hearing. Further, learned counsel for accused is also at liberty to clarify in this regard.

Put up for orders / clarification for **21/10/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.10.2020**

**Bail Matters No.:1477/2020**  
**State Vs Mohsim Khan**  
**FIR No. :210/2020**  
**PS:Sarai Rohilla**

**17/10/2020**

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

Put up with the connected matter for clarification / orders for **21/10/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.10.2020**

**Interim Bail Application of applicant**  
**SURENDER**

**State v. Sunil etc.**  
**FIR No. : 303/2014**  
**PS: Subzi Mandi**  
**U/S: 302,307,120B,34 IPC &**  
**25,27 Arms Act**

**17.10.2020**

**Undersigned is also discharging bail roster duty.**

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

Certain clarifications required of previous interim order, if any.

**As such, put up for arguments and clarifications on 19.10.2020.**

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**(Naveen Kumar Kashyap)**

**ASJ-04/Central/17.10.2020**

**Interim Bail Application of applicant**  
**RAHUL @ TYAGI**

**State v. Ashu Atta**  
**FIR No. : 210/2018**  
**PS: Prasad Nagar**

**17.10.2020**

**Undersigned is also discharging bail roster duty.**

Present:Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.  
Sh. Pankaj Srivastava, Ld. Counsel for accused/applicant Rahul @ Tyagi  
through VC.

**Issue** notice to IO for next date.

IO to file reply including regarding medical condition of the mother of the  
accused/applicant.

**Put up for appropriate order for 22.10.2020.**

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**(Naveen Kumar Kashyap)**

**ASJ-04/Central/17.10.2020**

**Application of accused Honey Rawat for conducting Bone Ossification test.**

**State v. Imran @ Akhtar  
FIR No. : 227/2020  
PS: Wazirabad**

**17.10.2020**

**Undersigned is also discharging bail roster duty.**

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

An application dated 17.10.2020 filed by accused/applicant Honey Rawat for conducting his Bone Ossification test.

**Put up for regular hearing day i.e. on 27.10.2020 for consideration and appropriate order.**

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**(Naveen Kumar Kashyap)**

**ASJ-04/Central/17.10.2020**

**Bail Application of applicant**  
**SUNNY**

**State v. Taufiq @ kala**

**FIR No. : 20/2016**

**PS: Crime Branch**

**U/S: 364A/395/342/420/468/471/120B IPC.**

**17.10.2020**

**Undersigned is also discharging bail roster duty.**

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.  
Sh. Harshvardhan Sharma, Ld. Counsel for accused/applicant Sunny through VC.

An application for regular bail filed by accused/applicant Sunny through counsel.

Issue notice to IO for next date.

**Put up for reply, arguments and appropriate orders for 26.10.2020.**

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**(Naveen Kumar Kashyap)**

**ASJ-04/Central/17.10.2020**

**Application for release of RC**

**State v. Bablu Mathur  
FIR No. : 221/2015  
PS: Karol Bagh  
U/S: 302,392,394, 397 , 34 IPC**

**17.10.2020**

**Undersigned is also discharging bail roster duty.**

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.  
Sh. Vikas Padora, Ld. Counsel for accused/applicant through VC.

This is an application for release of original RC moved by surety Virender Kumar.

**Put up for consideration and appropriate orders on regular day of hearing  
i.e. on 27.10.2020.**

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Date: 2020.10.17 16:58:49  
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**(Naveen Kumar Kashyap)**

**ASJ-04/Central/17.10.2020**

**Application for change of surety**

**State v. Lokesh etc.  
FIR No. : 348/2015  
PS: Nabi Karim  
U/S: 392,397,411 IPC**

**17.10.2020**

**Undersigned is also discharging bail roster duty.**

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.  
Sh. Vineet Jain, Ld. Counsel for accused/applicant through VC.

This is an application for submitting fresh bail bond dated 13.10.2020.

**Put up for consideration/appropriate orders on 21.10.2020.**

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**(Naveen Kumar Kashyap)**

**ASJ-04/Central/17.10.2020**

**Bail Application of applicant**  
**ARSHAD**

**State v. Tehsin @ Kevda**  
**FIR No. : 20/2015**  
**PS: Kamla Market**  
**U/S: 302,396,412,34 IPC**

**17.10.2020**

**Undersigned is also discharging bail roster duty.**

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.  
Sh. J.S. Mishra, Ld. Counsel for accused/applicant Arshad through VC.  
Sh. S.I. Giriraj through VC.

This is a regular bail application.

Arguments in detail heard.

It is argued that witness has turned hostile. Further, co-accused is also granted  
bail.

**Put up for orders with case file on 21.10.2020.**

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**(Naveen Kumar Kashyap)**

**ASJ-04/Central/17.10.2020**

**State vs Anup Kumar @ Chipra & others**  
**(Application of Anup Kumar)**  
**FIR No. 513/2016**  
**P. S. Burari**

**17.10.2020**

**This court is also discharging bail roster duty.**

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

Adjournment sought by the learned counsel for the applicant / accused.

At request, put up for **26/10/2020** for arguments, and appropriate orders.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.10.2020**

**State vs Arjun Kumar & others  
(Application of Arjun Kumar)  
FIR No. 205/2018  
P. S. Lahori Gate**

**17.10.2020**

**This court is also discharging bail roster duty.**

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

Reply not filed by the IO.

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

Put up for reply, arguments and appropriate orders for **22/10/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.10.2020**