

State Vs. Nitin Tokas

FIR No: 215/14

Under Section: 186/307/353/395/397/412/506/34 IPC & 25/27-54-59 Arms Act

PS: Lahori Gate

15.07.2020

Through video conferencing

Fresh regular bail application of accused/applicant received.

Present: Sh. Alok Saxena, Ld. APP for the State.
Sh. Sunil Umraniya, Ld. Counsel for accused/applicant.

Ld. Counsel is seeking regular bail on the ground that accused/applicant has been falsely implicated in the instant case. It is argued that prosecution witnesses i.e. PW5 to PW10 have not supported the prosecution version. It is further argued that there is delay of 05 hours in loading of FIR in the instant case. It is further stated that due to current pandemic situation the conclusion of trial may take long time and therefore, accused cannot be put behind bars for an indefinite period. It is further argued that there is no possibility of witnesses being threatened as all the public witnesses have already been examined in the instant case.

Ld. Counsel for accused has forcefully argued that the presence of accused is required as his family (old aged parents including bed ridden father) is suffering in his absence during this pandemic.

Ld. APP for State has opposed the bail application on the ground that this is 7th such application moved on behalf of accused for regular bail and considering the gravity of the offence, accused cannot be enlarged on bail.

I have heard the rival contentions and perused the record.

Previous six applications (for grant of regular bail) moved on behalf of accused has been dismissed by Ld. Predecessors of this court on different dates and last of such order was passed on 24.04.2018. There is no change in circumstance

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State Vs. Nitin Tokas

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Under Section: 186/307/353/395/397/412/506/34 IPC & 25/27-54-59 Arms Act

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since passing of said order, except that one more witness i.e. PW-11 has been examined. However, mere examination of all public witnesses can be no good ground to release accused on bail considering the gravity of offence and the nature of evidence appearing against him. The presence of accused at the spot has been captured in CCTV footage. All the contentions raised by applicant have already been dealt by Ld Predecessors of this court on previous occasions.

In the case of **Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and Another**, (2005) 2 SCC 42, the Hon'ble Supreme Court observed as follows:

"Ordinarily, the issues which had been canvassed earlier would not be permitted to be re-agitated on the same grounds, as the same it would lead to a speculation and uncertainty in the administration of justice and may lead to forum hunting."

In the case of **State of Tamil Nadu vs S.A. Raja Appeal (crl.) 1470 of 2005 decided on 26 October, 2005**, the Hon'ble Supreme Court held as follows:

"Of course, the principles of res judicata are not applicable to bail applications, but the repeated filing of the bail applications without there being any change of circumstances would lead to bad precedents."

In the case of **Harish Kathuria & Anr. Vs. State, Bail Application No. 1135/2011, decided on 18.08.2011**, the Hon'ble High Court of Delhi has observed as follows :

"Successive bail applications can be filed as has been held

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State Vs. Nitin Tokas

FIR No: 215/14

Under Section: 186/307/353/395/397/412/506/34 IPC & 25/27-54-59 Arms Act

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in the catena of judgments but then it has been observed that there must be change in circumstances which warrant fresh consideration of the application. Successive bail applications without there being any change in circumstances is not only to be deprecated but is in effect a gross abuse of the processes of law which must be visited with some amount of sanction by way of cost for wasting the time of the Court. There are cases of persons who are languishing in jail for wanting their appeals to be heard for want of time while as unscrupulous persons like the petitioners, who have embarked on a forum shopping or rather be called a bench hopping, are wasting the time of the Court."

As there is no change in circumstances after dismissal of previous applications for bail, the instant application is also to meet the same fate.

Further, trial in the instant case is still going on and therefore, it would be premature to examine the sufficiency/probative value of the evidence at this stage. Therefore, a deep and critical analysis of evidence is not necessary at this stage.

In the case of *Vaman Narain Ghiya v. State of Rajasthan (2009) 2 SCC 281*, the Hon'ble Supreme Court observed as follows:

"While considering an application for bail, detailed discussion of the evidence and elaborate documentation of the merits is to be avoided. This requirement stems from the desirability that no party should have the impression that his case has been pre-judged.

Existence of a prima facie case is only to be

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State Vs. Nitin Tokas

FIR No: 215/14

Under Section: 186/307/353/395/397/412/506/34 IPC & 25/27-54-59 Arms Act

PS: Lahori Gate

considered. Elaborate analysis or exhaustive exploration of the merits is not required."

In the case of **State of Orissa vs Mahimananda Mishra Crl. Appeal No. 1175/2018** decided on 18.09.2018, the Hon'ble Supreme Court, while setting aside an order of grant of bail, observed as follows :

"It is also well settled that the Court must not go deep into merits of the matter while considering an application for bail. All that needs to be established from the record is the existence of a prima facie case against the accused. Keeping in mind the aforementioned principles, we are of the view that the High Court was not justified in going into the evidence on record in such a depth which amounts to ascertaining the probability of the conviction of the accused."

The other reason (i.e. for looking after old aged parents including bed ridden father) cited by accused for grant of bail does not disclose good grounds to be entertained as the very incarceration of an accused not only curtails his 'personal liberty' but also certain other rights like 'right to maintain and take care of one's family'. Even otherwise, the accused is in custody since 19.01.2015, therefore, it is evident that his family members are maintaining themselves at their own (since long) even in his absence.

In light of aforesaid reasons, considering the gravity of allegations, role of accused, nature of evidence appearing against him and since there is no material change in circumstance since dismissal of his earlier applications, I am not inclined to

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State Vs. Nitin Tokas

FIR No: 215/14

Under Section: 186/307/353/395/397/412/506/34 IPC & 25/27-54-59 Arms Act

PS: Lahori Gate

grant bail to accused Nitin Tokas. Mere long custody or current situation of pandemic (additional grounds for bail pressed by counsel during arguments) cannot be good grounds to enlarge accused on bail in the facts and circumstances of the present case. The application for bail is accordingly dismissed.

Copy of this order be sent to concerned jail superintendent as well as IO for information. Dasti through e-mail, if requested by counsel.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
15.07.2020

State Vs. Neeraj @ Rohit

FIR No: 1195/15

Under Section: 380/392/397/458/307/186/353/411/34 IPC

PS: Kotwali

15.07.2020

Through video conferencing

Fresh application for grant of custody parole for period of 08 hours to applicant/accused received.

**Present: Sh. Alok Saxena, Ld. APP for the State.
Sh. Hari Shanker, Ld. Counsel for accused/applicant.**

Ld. Counsel submits that the father of accused/applicant has expired on 04.07.2020 and the 'Tehravi' of his father is fixed for 16.07.2020 and therefore, request for grant of custody parole for 08 hours/interim bail has been made.

Heard. Considered.

Vide order dated 13.07.2020 of this court, the application moved by applicant/accused for interim bail on the similar ground was dismissed by this court observing that the IO has reported that all rituals pertaining to deceased father of accused has already been performed.

The IO has filed fresh report today reiterating his earlier report . In these circumstances, no ground is made for grant of custody parole to accused/applicant. Accordingly, **present application stands dismissed.**

Copy of the order be given dasti to counsel through e-mail, if requested.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
15.07.2020

State Vs. Santosh Gupta

FIR No: 160/13

Under Section: 365/302/120B IPC

PS:NDRS

15.07.2020

Through video conferencing

Present: Sh. Alok Saxena, Ld. APP for the State.
Sh. Vikas Jain, Ld. Counsel for accused/applicant

Heard. Considered.

Fresh surety bond furnished. Same shall be verified through concerned IO/SHO who shall file their report by **17.06.2020**.

Ahlmad to make endorsement on the bail bond accordingly under his signatures.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
15.07.2020

State Vs. Parvez Mirza

FIR No: 113/2015

Under Section: 498-A/302/304B/174-A IPC

PS: Chandni Mahal

15.07.2020

Through video conferencing

Fresh application for grant of interim bail of accused/applicant received.

Present: Sh. Alok Saxena, Ld. APP for the State.
Sh. Manish K. Singh, Ld. Counsel for accused/applicant.

Ld. Counsel for accused/applicant is seeking interim bail for 45 days. However, perusal of application reveals that accused is already on interim bail vide order dated 03.06.2020. Therefore, present application shall be treated as one for extension of interim bail.

Report of IO received. Copy of same supplied to other side electronically.

As per the report of IO, there is NIL involvement of accused in any other case.

In terms of the directions dated 13.07.20 of Hon'ble High Court in W.P. (C) 3037/2020, Court on its own motion Vs. Govt. of NCT of Delhi & anr, the interim bail of all such applicants have already been extended by Hon'ble High Court vide a common order till 31st August, 2020. The relevant observations of Hon'ble High Court are as follows:

" 5. 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 and 15th June, 2020 till 31st August, 2020 with the same terms and conditions.

6. The Hon'ble Single Bench of this Court in CrL.A.193/2020 titled as Harpreet Singh vs State vide order dated 01st July, 2020 sought clarification to the following effect:

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"7. The queries that the Hon'ble Full Bench may consider and decide for the guidance of all concerned are as follows:

a. Whether the orders made by the Hon'ble Full Bench in W.P.(C) No. 3037/2020, including last order dated 15.06.2020, apply to all interim orders, whether made in civil or criminal matters, and regardless of whether such orders were made on or before 16.03.2020 or thereafter?

b. Whether interim bail or interim suspension of sentence has been granted by a Bench of this court exercising discretion and based upon specific facts and circumstances of a given case, would such orders also stand automatically extended by operation of orders made by the Full Bench in W.P.(C) No. 3037/2020?

8. While deciding the issue, the Hon'ble full Bench may consider the aspect of parity, namely that, on a plain reading of the orders in W.P.(C) No. 3037/2020, interim orders granted on or before 16.03.2020 appear to be getting extended by general directions; but those made after 16.03.2020 appear not to be covered thereby."

7. In this regard, we make it clear that all the directions issued from time to time in this case are based on the ongoing pandemic situation in Delhi. So far as the criminal matters are concerned, these directions have been issued keeping in view the fact that the jail authorities have limited space to keep the inmates and in case of spread of Covid-19 pandemic in the jail, it would not be in a position to maintain physical distancing amongst jail inmates. Looking to this aspect and the possible threat of spreading of viral infection by those persons who are on interim bail/bail/parole granted by this court or the courts subordinate to this court, to other inmates of the jail on their return to the jail, the decision of extension of interim bail/bail/parole has been taken from time to time. It is clarified that this order of extension of bail/interim

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bail/parole shall be applicable to all undertrials/convicts, who are on bail/interim bail or parole as on date irrespective of the fact that they were released on bail/interim bail or parole before or after 16th March, 2020.

In view of same, there is no necessity for filing the present application separately. **Present application stands disposed off accordingly.**

Copy of this order be sent to concerned Jail Superintendent for information. Copy of this order be given dasti, if requested.

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(Anuj Agrawal)

ASJ-03, Central District
Tis Hazari Courts, Delhi

15.07.2020

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State Vs. Azaz Mirza

FIR No: 113/2015

Under Section: 498-A/302/304B/174-A IPC

PS: Chandni Mahal

15.07.2020

Through video conferencing

Fresh application for grant of interim bail of accused/applicant received.

**Present: Sh. Alok Saxena, Ld. APP for the State.
Sh. Manish K. Singh, Ld. Counsel for accused/applicant.**

Ld. Counsel for accused/applicant is seeking interim bail for 45 days. However, perusal of application reveals that accused is already on interim bail vide order dated 03.06.2020. Therefore, present application shall be treated as one for extension of interim bail.

Report of IO received. Copy of same supplied to other side electronically.

As per the report of IO, there is NIL involvement of accused in any other case.

In terms of the directions dated 13.07.20 of Hon'ble High Court in **W.P. (C) 3037/2020, Court on its own motion Vs. Govt. of NCT of Delhi & anr**, the interim bail of all such applicants have already been extended by Hon'ble High Court vide a common order till 31st August, 2020. The relevant observations of Hon'ble High Court are as follows:

" 5. 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 and 15th June, 2020 till 31st August, 2020 with the same terms and conditions.

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6. The Hon'ble Single Bench of this Court in Crl.A.193/2020 titled as Harpreet Singh vs State vide order dated 01st July, 2020 sought clarification to the following effect:

“7. The queries that the Hon'ble Full Bench may consider and decide for the guidance of all concerned are as follows:

a. Whether the orders made by the Hon'ble Full Bench in W.P.(C) No. 3037/2020, including last order dated 15.06.2020, apply to all interim orders, whether made in civil or criminal matters, and regardless of whether such orders were made on or before 16.03.2020 or thereafter?

b. Whether interim bail or interim suspension of sentence has been granted by a Bench of this court exercising discretion and based upon specific facts and circumstances of a given case, would such orders also stand automatically extended by operation of orders made by the Full Bench in W.P.(C) No. 3037/2020?

8. While deciding the issue, the Hon'ble full Bench may consider the aspect of parity, namely that, on a plain reading of the orders in W.P.(C) No. 3037/2020, interim orders granted on or before 16.03.2020 appear to be getting extended by general directions; but those made after 16.03.2020 appear not to be covered thereby.”

7. In this regard, we make it clear that all the directions issued from time to time in this case are based on the ongoing pandemic situation in Delhi. So far as the criminal matters are concerned, these directions have been issued keeping in view the fact that the jail authorities have limited space to keep the inmates and in case of spread of Covid-19 pandemic in the jail, it would not be in a position to maintain physical distancing amongst jail inmates. Looking to this aspect and the possible threat of spreading of viral infection by those persons who are on interim bail/bail/parole granted by this court or the courts subordinate to this court, to other inmates of the jail on their return to the

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jail, the decision of extension of interim bail/bail/parole has been taken from time to time. It is clarified that this order of extension of bail/interim bail/parole shall be applicable to all undertrials/convicts, who are on bail/interim bail or parole as on date irrespective of the fact that they were released on bail/interim bail or parole before or after 16th March, 2020.

In view of same, there is no necessity for filing the present application separately. **Present application stands disposed off accordingly.**

Copy of this order be sent to concerned Jail Superintendent for information. Copy of this order be given dasti, if requested.

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ASJ-03, Central District
Tis Hazari Courts, Delhi
15.07.2020

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CA No: 439/19

Ravinder Kumar Jain vs Madhu Gupta

15.07.2020

Through video conferencing

Present: Sh. Ankit Rai, Ld. Counsel for the applicant/respondent
None for non-applicant/appellant.

Ahlmad has reported that the notice was sent to other side through e-mail in terms of directions dated 01.07.2020 for ascertaining his willingness to address arguments through VC. However, none has appeared on behalf of non-applicant/appellant pursuant to said notice which amounts to his non-willingness.

However, at request of Ld. Counsel for applicant/respondent, issue fresh notice in terms of previous order for **30.07.2020**.

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State Vs. Mohd. Amir

FIR No: 25/2016

Under Section: 397/394/411 IPC

PS: Darya Ganj

15.07.2020

Through video conferencing

Fresh application for grant of regular bail of accused/applicant received.

**Present: Sh. Alok Saxena, Ld. APP for the State.
Sh. Rishi Kant Mishra, Ld. Counsel for accused/applicant.**

**The accused is already on interim bail till 25.07.2020.
At this stage, Ld. Counsel seeks liberty to withdraw the present application.**

At request, present application stands disposed off as withdrawn.

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ASJ-03, Central District
Tis Hazari Courts, Delhi
15.07.2020**



State Vs. Amarjeet Singh @ Jeeta

FIR No: 143/2013

Under Section: 364-A/342/323/120-B/34 IPC

PS: Rajinder Nagar

15.07.2020

Through video conferencing

Fresh application for grant of extension of interim bail of accused/applicant received.

**Present: Sh. Alok Saxena, Ld. APP for the State.
Sh. K. Singhal, Ld. Counsel for accused/applicant.**

The applicant is seeking extension of interim bail, granted to him vide order dated 23.04.2020 by Ld. ASJ (on duty) and further extended vide order dated 05.06.2020.

In terms of the directions dated 13.07.20 of Hon'ble High Court in **W.P.(C) 3037/2020, Court on its own motion Vs. Govt. of NCT of Delhi & anr**, the interim bail of all such applicants have already been extended by Hon'ble High Court vide a common order till 31st August, 2020. The relevant observations of Hon'ble High Court are as follows:

" 5. 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 and 15th June, 2020 till 31st August, 2020 with the same terms and conditions.

6. The Hon'ble Single Bench of this Court in CrL.A.193/2020 titled as Harpreet Singh vs State vide order dated 01st July, 2020 sought clarification to the following effect:

"7. The queries that the Hon'ble Full Bench may consider and decide for the guidance of all concerned are as follows:

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a. Whether the orders made by the Hon'ble Full Bench in W.P.(C) No. 3037/2020, including last order dated 15.06.2020, apply to all interim orders, whether made in civil or criminal matters, and regardless of whether such orders were made on or before 16.03.2020 or thereafter?

b. Whether interim bail or interim suspension of sentence has been granted by a Bench of this court exercising discretion and based upon specific facts and circumstances of a given case, would such orders also stand automatically extended by operation of orders made by the Full Bench in W.P.(C) No. 3037/2020?

8. While deciding the issue, the Hon'ble full Bench may consider the aspect of parity, namely that, on a plain reading of the orders in W.P.(C) No. 3037/2020, interim orders granted on or before 16.03.2020 appear to be getting extended by general directions; but those made after 16.03.2020 appear not to be covered thereby."

7. In this regard, we make it clear that all the directions issued from time to time in this case are based on the ongoing pandemic situation in Delhi. So far as the criminal matters are concerned, these directions have been issued keeping in view the fact that the jail authorities have limited space to keep the inmates and in case of spread of Covid-19 pandemic in the jail, it would not be in a position to maintain physical distancing amongst jail inmates. Looking to this aspect and the possible threat of spreading of viral infection by those persons who are on interim bail/bail/parole granted by this court or the courts subordinate to this court, to other inmates of the jail on their return to the jail, the decision of extension of interim bail/bail/parole has been taken from time to time. It is clarified that this order of extension of bail/interim bail/parole shall be applicable to all undertrials/convicts, who are on bail/interim bail or parole as on date irrespective of the fact that they were

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*released on bail/interim bail or parole before or after
16th March, 2020.*

In view of same, there is no necessity for filing the present application separately. **Present application stands disposed off accordingly.**

Copy of this order be sent to concerned Jail Superintendent for information. Copy of this order be given dasti, if requested.

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