

Bail Application No.: 1669/2020

**State v. Afsar
FIR no.: 187/2020
PS: Hauz Qazi**

04.11.2020

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

Part arguments in detail heard.

Having regard to the grounds raised in the present bail application, issue notice to IO as well as SHO concerned to appear through VC or physically at the time of further arguments on this bail application.

Issue notice to them accordingly.

Put up on 07.11.2020.

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**(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
04.11.2020**

Bail Application No.: 1583/2020
Bail Application No. : 1671/2020
Bail Application No. : 1684/2020
State v. Zakir Ahmad
FIR no.: 424/2020
PS: Karol Bagh

04.11.2020

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

Ld. Counsels for applicant through VC.

These are three bail applications on behalf of the same accused Zakir Ahmad S/o Ali Hasan FIR no.424/2020, PS-Karol Bagh.

One of such application is filed through counsel Sh. Lokendra Rana in which the vakalatnama dated 15.10.2020 is signed by the accused himself.

There are two other bail applications dated 29.10.2020 with vakalatnama of learned counsel of Sh. Anil Kumar Gupta which is signed by the Parokar/brother of the accused. It is stated that these one of these two hand written bail application through counsel Sh. Anil Kumar Gupta filed inadvertently again as they are not aware that their first bail application no. 1583/2020 and 1671/2020 is already registered or not.

Heard in detail.

Under these circumstances when a bail application No- 1583/2020 ,with vakalatnama of accused is already on record ,therefore two other **bail application no. 1684/2020 and 1671/2020 are dismissed as not tenable.**

Arguments in detail heard on the application bearing no. 1583/2020.

IO Mukesh Tomar is also present.

He states that two of the accused are granted bail in this case and he undertakes to file order of such co-accused during the course of the day.

Put up for orders/clarifications, if any tomorrow i.e. 05.11.2020 at 4 pm.

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ASJudge-04/Central/04.11.2020

Bail Application No.: 1683/2020

**State v. Madhu
FIR no.: 207/2020
PS: I.P. Estate**

04.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Ms. Babita Ahlawat, Ld. Counsel for applicant through VC.

This is an application dated 29.10.2020 for anticipatory bail.

It is stated at present such accused/applicant is only bound down by IO already. As such, she seeks permission to withdraw the original anticipatory bail application.

Heard. Allowed.

Present application is disposed of accordingly.

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Additional Sessions Judge-04/Central
04.11.2020**

Bail Application No.: 1638/2020

**State v. Mohd. Zahid
FIR no.: 157/2020
PS: Darya Ganj**

04.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Sh. Gulab Singh, Ld. Counsel for applicant through VC.

Part arguments in detail heard.

It is claimed that this is first bail application. But on the other hand, in reply it is stated by IO that bail application of all the accused in this case are already rejected by Sessions Court.

As such, issue notice to IO to place on record the copy of order of rejection of bail of present accused from the Sessions court.

Put up on 10.11.2020.

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Additional Sessions Judge-04/Central
04.11.2020**

Bail Application No.: 1679/2020

**State v. Sewa Ram
FIR no.: 239/2020
PS: Sarai Rohilla**

04.11.2020

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

**Put up for appearance of counsel and appropriate orders on
10.11.2020.**

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Additional Sessions Judge-04/Central
04.11.2020**

Bail Application No.: 1680/2020

**State v. Vikram Thakur
FIR no.: 292/2016
PS: Karol Bagh**

04.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Sh. Manoj Kumar Goswami, Ld. Counsel for applicant through VC.
Sh. Muddassir, Ld. Counsel for complainant is present through VC.

This is an application u/s 438 Cr.P.C. for grant of anticipatory bail application.

Reply not filed by IO.

Issue notice to IO to file reply.

Put up for reply, arguments and orders on 11.11.2020.

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Additional Sessions Judge-04/Central
04.11.2020**

NOT TO BE UPLOADED

Bail Application No.: 1639/2020

State v. Sourabh Verma

FIR no.: 207/2020

PS: Darya Ganj

U/S; 376 IPC

04.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Sh. Praveen, Ld. Counsel for applicant through VC.
Complainant is also present through VC.
Ms. Nazma Parveen. Ld. Counsel for complainant.
IO of the case is also present through VC.

This bail application is heard separately through VC.

Put up for orders/clarifications, if any on 06.11.2020.

Complainant is at liberty to make further submissions in person in case she wants to make through VC on next date.

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(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
04.11.2020

Bail Application No.: 1678/2020

**State v. Zahid
FIR no.: 265/2020
PS: Sarai Rohilla**

04.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Sh. Virender Sangwan, Ld. Counsel for applicant through VC.

Arguments in detail heard.

It is stated that bail was rejected on 15.09.2020 by the court of Sh. Vidya Prakash, Ld. ASJ, Central.

Put up for orders on 10.11.2020.

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Additional Sessions Judge-04/Central
04.11.2020**

Bail Application No.: 1649/2020

**State v. Satpal
FIR no.: 196/2019**

04.11.2020

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

Arguments in detail heard.

Put up for orders at 4 pm.

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Additional Sessions Judge-04/Central
04.11.2020**

AT 2 pm

Present: Sh. Anjum Kumar, Ld. Counsel for complainant through VC.

Arguments also addressed by counsel for complainant.

No time left.

Put up for arguments/orders on 06.11.2020.

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**(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
04.11.2020**

Bail Application No.: 1605/2020

**State v. Rizwan
FIR no.: 20381/2020
PS: Prasad Nagar**

04.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Sh. Praduman Sharma, Ld. Counsel for applicant through VC.

Arguments heard.

Put up for orders on 05.11.2020.

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Additional Sessions Judge-04/Central
04.11.2020**

Bail Application No.: 1681/2020

**State v. Titari
FIR no.: 317/2020
PS: Lahori Gate**

04.11.2020

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

Arguments heard in detail.

Put up for orders/clarifications, if any on 06.11.2020.

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Additional Sessions Judge-04/Central
04.11.2020**

Bail Application No.: 1682/2020

**State v. Upender
FIR no.: 317/2020
PS: Kashmere Gate**

04.11.2020

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

Arguments heard in detail.

Put up for orders/clarifications, if any on 06.11.2020.

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Additional Sessions Judge-04/Central
04.11.2020**

Bail Application No.: 1360/2020

**State v. Mohd. Umer
FIR no.: 210/2020**

04.11.2020

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

Arguments already heard.

No time left.

Put up for orders/clarifications, if any on 05.11.2020.

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Additional Sessions Judge-04/Central
04.11.2020**

Bail Application No.: 1604/2020

**State v. Wasim
FIR no.: 07/2020
PS: Railway Main Delhi**

04.11.2020

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

Arguments already heard.

No time left.

Put up for orders/clarifications, if any on 05.11.2020.

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**(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
04.11.2020**

Bail Application No.: 1674/2020

**State v. Arif @ Asif
FIR no.: 210/2020
PS: Sarai Rohilla**

04.11.2020

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

Arguments heard in detail.

Put up for orders/clarifications, if any on 06.11.2020.

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**(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
04.11.2020**

Bail Matters No.:1589/2020
State Vs Saif Ali
FIR No.: 364/2020
PS: Sarai Rohilla

04/11/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.
Mr. A.K. Chauhan, learned counsel for the accused through VC.

It is further argued that now even the TIP of accused is conducted.

As such, issue notice to IO to file additional reply in this regard as well as to appear in person through VC with case file on the next date of hearing. Issue notice accordingly.

Put up for further reply, arguments and appropriate orders for **08/11/2020**.

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(Naveen Kumar Kashyap)
ASJ-04/Central/04.11.2020

Bail Matters No.:1653/2020
State Vs Amit Kumar Gupta
FIR No.: Not Known
PS: Darya Ganj

04/11/2020

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

This is an application u/s 438 Cr.PC filed by the applicant Amit Kumar Gupta dated 27/10/2020.

Reply filed today. As per such reply no complaint or FIR is pending against present applicant / accused in PS Darya Ganj. On the other hand, it is stated by the learned counsel for the applicant / accused that there are certain case law / directions by the Hon'ble High Court relating to procedure to be adopted in case any police officer wants to inquire from a particular person. The facts remains that at present there is no FIR / complaint pending against the present applicant. As such, there cannot be any apprehension of arrest. As such, present application is premature and is disposed off accordingly.

But before parting it may be noted that it is stated that one Brijesh who is stated to be police official from PS Darya Ganj having mobile No. 9560243256 visited the residence of present applicant. But when no complaint or FIR is registered or is pending against present applicant, then having regard to the scheme of Cr.PC particular chapter (XII) thereof, this court fails to understand under what provision /force of law , such police official visited the address of present applicant when there is no complaint or FIR pending against such applicant. There is no occasion of action under section 154 Cr.PC or 161 Cr.PC. It appears that such police officer is putting cart before the bull. Investigation without FIR. Such action on the part of police officer, prima facie does not appears to be above board/as per law and against the rule of law.

As such, copy of this order be sent to DCP concerned for his information and necessary action against such police officer Brijesh. Copy of this order be given to all the sides.

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(Naveen Kumar Kashyap)
ASJ-04/Central/04.11.2020

Bail Matters No.:1685/2020
State Vs Sanjeev Pahwa
FIR No.: 354/2017
PS: Prashad Nagar

04/11/2020

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

This is an application for anticipatory bail filed by the applicant Sanjeev Pahwa through counsel.

Reply filed.

Part arguments heard in detail.

It is claimed by the applicant that he has joined investigation. FIR is of the year 2017.

Let IO to appear through VC with case file at the time of further arguments including on the aspect of directions by the Hon'ble Supreme Court in case of Arnesh Kumar.

Issue notice to IO accordingly.

Put up for further arguments for **18/11/2020**.

In the meanwhile, IO is directed not to take any coercive action against the applicant till the next date of hearing provided that applicant shall cooperate in the investigation. Issue notice to IO accordingly for the next date of hearing.

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(Naveen Kumar Kashyap)
ASJ-04/Central/04.11.2020

Bail Matters No.:1500/2020
State Vs Mantasha w/o Mohd. Irshad
FIR No.:88/2020
PS: Karol Bagh
U/s 379 IPC

04/11/2020

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

This is an application dated 05/10/2020 seeking anticipatory bail.

Reply dated 12/10/2020 already filed by the IO.

In view of such reply there is no ground to arrest the present applicant. As such, there is no apprehension made out for seeking relief u/s 438 Cr.PC. As such, the present application is disposed off accordingly.

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(Naveen Kumar Kashyap)
ASJ-04/Central/04.11.2020

Bail Matters No.:1575/2020
State Vs Jamshed
FIR No.:24604/2020
PS: Sarai Rohilla

04/11/2020

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

Further reply not filed by ASI Omkar Singh of PS Sarai Rohilla.

Issue show cause notice to him through SHO concerned as to why further reply not filed in terms of order dated 21/10/2020. Further, IO to appear in person with case file through VC on the next date of hearing.

Put up for further reply, arguments and appropriate orders for **10/11/2020**.

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(Naveen Kumar Kashyap)
ASJ-04/Central/04.11.2020

Bail Matters No.:1584/2020
State Vs Saned @ Sanod
FIR No.:258/2020
PS: Prashad Nagar

04/11/2020

Present:

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

Mr. D.L. Chauhan, learned counsel for the applicant / accused Saned @ Sanod through VC.

Mr. R.K.Sharma, learned counsel for complainant with complaint through VC.

Reply filed.

Arguments in detail heard.

Put up for appropriate orders / clarifications, if any, for **05/11/2020**.

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(Naveen Kumar Kashyap)
ASJ-04/Central/04.11.2020

Bail Matters No.:1670/2020
State Vs Mehtab @ Telli
FIR No.:265/2020
PS: Sarai Rohilla

04/11/2020

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

Adjournment is sought by the counsel for the accused.

As such, put up for arguments and appropriate orders for **18/11/2020**.

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ASJ-04/Central/04.11.2020

Bail Matters No.:1672/2020
State Vs Rinku Verma
FIR No.:273/2020
PS: Sarai Rohilla

04/11/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.
Ms. Seema Gupta, learned counsel for the applicant through VC.

Part arguments in detail heard.

It is claimed that no recovery is affected from the present accused. On the other hand, from the reply of the IO, it is not clear as to which of the case property is alleged to be recovered from the present accused.

As such, IO to appear in person with case file on the next date of hearing. Issue notice to IO accordingly for the next date of hearing.

Put up for further appropriate orders for **09/11/2020**.

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Bail Matters No.:1673/2020
State Vs Shiv Shankar Mishra
FIR No.:186/2019
PS: Kamla Market

04/11/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.
Mr. Chander M. Maini, learned counsel for applicant through VC.
IO Giri Raj is also present through VC.

This is an application for applicant / accused **Sharad Chandra Shrivastav** filed by applicant through counsel.

It is stated that this matter was listed for yesterday and from yesterday it has been adjourned for 07/11/2020.

As such, put up for clarification / appropriate orders for **07/11/2020**.

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(Naveen Kumar Kashyap)
ASJ-04/Central/04.11.2020

BAIL APPLICATION

_ State v. Arjun Kumar
FIR No. : 205/2018
PS: Lahori Gate
U/S: 307 IPC

04.11.2020

Undersigned is also discharging bail roster duty.

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

Reply filed by IO. Copy of the same be supplied to counsel for accused through electronic mode.

Put up for arguments and appropriate orders for 11.11.2020.

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ASJ-04/Central/04.11.2020

BAIL APPLICATION

_ State v. Govind Kumar
FIR No. : 215/2014
PS: NDRS
U/S: 307,324,323,149,75 IPC

04.11.2020

Undersigned is also discharging bail roster duty.

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

Reply filed by IO. Copy of the same be supplied to counsel for accused through electronic mode.

Put up for arguments and appropriate orders for 11.11.2020.

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(Naveen Kumar Kashyap)

ASJ-04/Central/04.11.2020

BAIL APPLICATION

_ State v. Rakesh Kumar
FIR No. : 236/2019
PS: Subzi Mandi
U/S: 308,34 IPC

04.11.2020

Undersigned is also discharging bail roster duty.

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.
Sh. Shivendra Singh, Ld. Counsel for applicant/accused through VC.
IO is also present through VC.

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

Part arguments in detail heard.

Put up for further arguments, if any and orders/clarifications, if any on

07.11.2020.

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(Naveen Kumar Kashyap)

ASJ-04/Central/04.11.2020

BAIL APPLICATION OF SANJAY @ DHARAMVIR

**_ State v. Raj Bahadur
FIR No. : 134/2014
PS: Kamla Market
U/S: 419,420,365,392,395,412,120B IPC**

04.11.2020

Undersigned is also discharging bail roster duty.

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

Arguments in detail heard. Inter alia it is argued that two of the accused are already granted bail. As such, role of the present applicant is same. On the ground of parity, bail application is made.

Put up for orders, if any on physical day with file on 12.11.2020.

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(Naveen Kumar Kashyap)

ASJ-04/Central/04.11.2020

APPLICATION FOR RELEASE OF VEHICLE

_ State v. Imran Akhtar etc.
FIR No. : 227/2020
PS: Wazirabad
U/S: 302 IPC

04.11.2020

Undersigned is also discharging bail roster duty.

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

This is an application for release of vehicle/motorcycle on superdari.

It is stated that reply is filed by IO.

Put up for orders with filed on physical hearing day on 07.11.2020.

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(Naveen Kumar Kashyap)

ASJ-04/Central/04.11.2020

Bail application of Extension of Interim Bail of Sonu

**_ State v. Sunil & Ors.
FIR No. : 303/2014
PS: Subzi Mandi
U/S: 302,307, 34 IPC**

04.11.2020

Undersigned is also discharging bail roster duty.

This is an application for extension of bail.

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

This is an application for extension of bail which is claimed to be moved by applicant Ravi Dhika but in the title the name of the accused is mentioned as Sonu.

As such, put up for clarifications/filing of correct application/appropriate orders on 05.11.2020.

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(Naveen Kumar Kashyap)

ASJ-04/Central/04.11.2020

BAIL APPLICATION

**_ State v. Naeem @ Chuha.
FIR No. : 215/2016
PS: Chandni Mahal**

04.11.2020

Undersigned is also discharging bail roster duty.

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

Put up for appearance of counsel for applicant and appropriate orders on

11.11.2020.

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(Naveen Kumar Kashyap)

ASJ-04/Central/04.11.2020

BAIL APPLICATION of DEEPAK @ BUNTY

_ State v. Ajay Sharma
FIR No. : 506/2015
PS: Nabi Karim
U/S: 364A,120B,506,34 IPC

04.11.2020

Undersigned is also discharging bail roster duty.

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.
Sh. Parveen Dabas, Ld. Counsel for applicant.
This is an application for extension of Interim Bail dated 29.10.2020 of accused Deepak @ Bunty.

It is argued by learned counsel for accused that he was granted interim bail vide order dated 07.09.2020 till 31.10.2020 on medical ground in the present case. But, as another case was pending against such accused, therefore, he was not released by the jail authority in the present case. Now, Hon'ble High court has granted interim bail to the applicant for three months in that another case. But in the meanwhile, interim bail granted by this court has expired on 31.10.2020. Thus, it is argued in nutshell despite the relief of interim bail granted by this court, he is not able to enjoy the benefit of the same and go for medical treatment.

On the other hand, present application is strongly opposed by the Ld. Addl. PP for the state including on the ground that offence is serious in nature. It is further stated that now the matter is pending before Hon'ble Supreme Court.

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

The situation of the accused is unfortunate as far as interim bail granted in the present case is concerned. On perusal of the order dated 07.09.2020 granting interim bail to the present accused in the present case, it can be seen that it was granted on medical ground. But due to pendency of other criminal case he was not physically released in the present case. As such, in the true spirit of the order dated 07.09.2020 and the arguments addressed by learned counsel for accused, **present accused is granted interim bail on merit for a period of four weeks** on the same terms and conditions on which he was granted interim bail vide order dated 07.09.2020. He is directed to surrender back on 03.12.2020 in the present case to the Jail Superintendent concerned.

Copy of this order be sent to Jail Superintendent concerned through electronic mode. Counsel for applicant may obtain copy of this order through electronic mode.

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(Naveen Kumar Kashyap)

ASJ-04/Central/04.11.2020

BAIL APPLICATION of DINESH @ DHANNA

_ State v. Babloo & Ors.
FIR No. : 251/2019
PS: Sarai Rohilla
U/S: 307,341,34 IPC &
25,27 Arms Act

04.11.2020

Undersigned is also discharging bail roster duty.

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

This is an application for extension of interim bail.

Arguments heard.

In this case accused was granted interim bail on merit as per record.

Vide order dated 20/10/2020 in WP(C) 3037/2020 ,Hon'ble High Court of Delhi was pleased not to extend such interim bail vide para No.7 (i) of such order. Further, certain liberty was given to the accused person to approach the court concerned under para 7 (ii) for extension of interim bail.

But thereafter, Hon'ble Supreme Court in SLP (C) Diary No. 23367 / 2020 titled as "*National Forum on prison reforms vs Government of NCT of Delhi & others*" vide order dated 29/10/2020 was pleased ,inter alia, to stay the operation of such para 7(i) & 7(ii) and put up the matter for further hearing for 26/11/2020.

In view of such development, as para 7 (ii) is also stayed by hon'ble Supreme Court, put up for further proceedings / appropriate orders on the present application for

27.11.2020.

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ASJ-04/Central/04.11.2020

BAIL APPLICATION of ANISH @ DUPATTEWALA

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

04.11.2020

Undersigned is also discharging bail roster duty.

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.
Sh. Sanjay Thakur, Ld. Counsel for applicant/accused Anish @ Dupattewal
through VC.

Issue notice to IO to file reply.

Put up for reply, arguments and appropriate orders for 17.11.2020.

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ASJ-04/Central/04.11.2020

Extension of Interim BAIL of Karan @ Raj Karan

**_ State v. Sunil & Ors.
FIR No. : 303/2014
PS: Subzi Mandi
U/S: 302,307,120B IPC**

04.11.2020

Undersigned is also discharging bail roster duty.

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

This is an application for extension of interim bail.

**Put up for consideration whether such interim bail was granted under
criteria or otherwise/appropriate orders for 06.11.2020**

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ASJ-04/Central/04.11.2020

BAIL APPLICATION

**_State v. Karan Bhardwaj
(APPLICANT VINEET LALA @ ARJUN)
FIR No. : 112/2019
PS: Wazirabad
U/S: 392,397,411,34 IPC**

04.11.2020

Undersigned is also discharging bail roster duty.

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

Arguments already heard on this application dated 29.09.2020.

Today, case was fixed for orders/clarifications.

Certain clarifications required regarding the earlier bail application, if any moved by such accused.

Put up for clarifications whether earlier any bail application moved by such accused during trial or not on next date.

Put up for orders/clarifications on 07.11.2020.

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(Naveen Kumar Kashyap)

ASJ-04/Central/04.11.2020

BAIL APPLICATION

_ State v. Gaurav Chauhan
Applicant Sahi Ram
FIR No. : 199/2009
PS: Kashmere Gate
U/S: 364A, 120B,34 IPC

04.11.2020

Undersigned is also discharging bail roster duty.

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

It is already clarified by counsel for accused Sahi Ram that at present he is pressing for interim bail only.

Arguments already heard on this interim bail aspect. It is argued by learned counsel for accused that he is in custody for last ten years and his family is facing great hardship especially in taking care of his child. Further, he has ailing parents. That wife of the accused already deserted his company and did not return to matrimonial home. That he has not any other criminal background. That earlier he was granted interim bail and he duly surrendered after availing the same. That he is suffering from stone in the kidney and required to undergo treatment for the same. It is stated that evidence is already over. As such there is no issue of threat to witness also. As such, it is prayed that he be granted interim bail for 45 days.

On the other hand in reply dated 23.09.2020 filed by IO, in which he replied on merit of the case. Apart from that it is stated that offence is very serious in nature. Further, to protect accused from corona spread he may not be released. Further, he may abscond. As present interim bail application is opposed.

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

This is one of the oldest matter pending in this court. The evidence of material witnesses is already over. Further, his conduct when he was granted interim bail earlier is satisfactory. Further, his medical condition is not denied. Under these facts and circumstances, without commenting on the merit of the allegations in detail, present accused is granted interim bail for four weeks from the date furnishing and acceptance of the bail bond in the sum of Rs. 20,000/- with a surety of like amount to the satisfaction of the court, subject

to further following conditions:

- (a) After completion of the interim bail period applicant shall surrender before concerned Jail Superintendent. Necessary intimation be sent to concerned Jail Superintendent accordingly;
- (b) Applicant shall not flee from the justice;
- (c) Applicant shall not tamper with the evidence;
- (d) Applicant shall not threaten or contact in any manner to the prosecution witnesses;
- (e) Applicant shall not leave country without permission;
- (f) Applicant shall convey any change of address immediately to the IO and the court;
- (g) Applicant shall also provide his mobile number to the IO;
- (h) Applicant shall further make a call, preferably by audio plus video mode to concerned IO, and if he is not available then to concerned SHO, once a week, preferably on Monday between 10 a.m. To 5 p.m.

Present application is allowed accordingly.

Copy of this order be sent to Jail Superintendent concerned through electronic mode. Further, learned counsel for accused/applicant may obtain copy of this order through electronic mode.

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(Naveen Kumar Kashyap)

ASJ-04/Central/04.11.2020

CA No.: 100/2020
Suresh Jain Vs State

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

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

04.11.2020

This court is also discharging bail Roster duty till further orders.

Present: Mr. Joydeep Majumdar, learned counsel for the appellant through VC.
Mr. Pawan Kumar, learned Addl.PP for the State through VC.
Respondent no.2 who is advocate by profession is through VC.

At request, put up for arguments for **07/11/2020**. Parties are at liberty to join physically or through VC as per their choice.

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(Naveen Kumar Kashyap)
ASJ-04/Central/04.11.2020

State Vs. Juber
FIR No. : 182/2017
PS: Kamla Market
U/S: 395 r/w 120B IPC

04.11.20200

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.
Sh. M.Z. Masih, learned Counsel for the Accused through VC.

Arguments already heard.

Today case was fixed for orders.

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

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

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

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

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

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

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

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

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

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

Further it may also be noted that it is also settled law that

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

In the present case, it is argued that on behalf of accused that he is a young boy of 19 years old. He has done diploma in Engineering. That he has his entrance examination scheduled for 08.11.2020. That there is no other criminal record of the present accused. That he is awarded certificate of appreciation also. That one of the co-accused Bilal is already granted bail. Charge already framed. He is permanent resident of Delhi. As such, he be granted regular bail.

On the other hand, in reply filed by IO as also argued by learned Addl.PP for the state that there are serious and specific allegations against the present accused. It is further argued that role of present accused is different as he is the person who used the pistol in question. Public witnesses are yet to be examined.

I find force in the arguments of learned Addl.PP for the state. The offence is serious in nature. Although accused has a bright career but at the same time there are specific and serious allegations against the accused including offence u/s 395 IPC which is punishable upto imprisonment for life. Therefore, having regard to the incriminating material against the accused, nature of offence, this court is not inclined to grant the relief as sought in the present application. **Hence, the same is dismissed.**

Learned counsel for the applicant / accused is at liberty

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to collect the order through electronic mode. Copy of this order be sent to IO/SHO concerned and Jail Superintendent concerned through electronic mode.

The observations made in the present interim bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.

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(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi
04.11.2020

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

Bail Application No.: 1664/2020
State Vs Sameer
FIR No. 11109/2020
P. S. Rajinder Nagar
U/s: 379, 411, 34 IPC

04/11/2020

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

Vide this order, bail application u/s 439 Cr.PC dated 29/10/2020 filed by applicant through counsel is disposed off.

It is stated on behalf of the applicant that he has been falsely implicated in the present case having no connection with the present case in any manner whatsoever; that he has been arrested on 22/08/2020 in four other cases including the present case on the basis of disclosure statement and he has been granted bail in four other cases; he is a young boy belongs to a respectable family; that chargesheet is already filed by the IO and no fruitful purpose would be served by keeping the present accused in JC. As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by the IO as also argued by the learned Addl.PP that the accused is habitual offender and is involved in several cases of similar nature; that accused is arrested in case of PS Nihal Vihar where recovery has also been affected from him; that cases of theft are on rampant rise these days and stolen vehicles are used in other heinous offences; that if he is released on bail there are possibility that he will

Bail Application No.: 1664/2020
State Vs Sameer
FIR No. 11109/2020
P. S. Rajinder Nagar
U/s: 379, 411, 34 IPC

again involve in similar offences. As such, bail application is opposed.

I have heard both the sides.

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

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a

Bail Application No.: 1664/2020
State Vs Sameer
FIR No. 11109/2020
P. S. Rajinder Nagar
U/s: 379, 411, 34 IPC

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

Bail Application No.: 1664/2020
State Vs Sameer
FIR No. 11109/2020
P. S. Rajinder Nagar
U/s: 379, 411, 34 IPC

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, the maximum punishment of the offences alleged against the present accused is 3 years. It is a matter of record that accused is in JC since 22/08/2020. Chargesheet is already filed. Trial is likely to take time. In fact, the period for seeking police remand is already over way back. Further, he was not arrested on the spot but later on based on the disclosure statement of the co-accused persons.

In above facts and circumstances, present accused is granted bail subject to furnishing of personal bond in the sum of **Rs. 20,000/- with one sound surety of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

- i) That he will appear before IO / Trial Court as and when called as per law.*
- ii) He will not indulge in any kind of activities which are*

alleged against him in the present case.

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

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

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

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

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

I may observe that certain guidelines had been laid down by the Hon'ble Delhi High Court in the case of “*Ajay Verma Vs. Government of NCT of Delhi*” WP (C) **10689/2017 dated 08.03.2018** wherein it was observed and I quote as under:

“..... The trial courts should not only be sensitive but extremely vigilant in cases where they are recording orders of bail to ascertain the compliance thereof.....When bail is granted, an endorsement shall be made on the custody warrant of the prisoner, indicating that bail has been granted, along with the date of the order of bail.

- a) In case of inability of a prisoner to seek release despite an order of bail, it is the judicial duty of the trial courts to undertake a review for the reasons thereof.*
- b) Every bail order shall be marked on the file.*
- c) It shall be the responsibility of every judge issuing an order of bail to monitor its execution and enforcement.*
- d) In case a judge stands transferred before the execution, it shall be the responsibility of the successor judge to ensure execution.....”*

I note that in the present case the bail bonds have been directed to be furnished before the Ld. Trial Court/ Ld. MM and hence in terms of the above observations, the Ld. MM is impressed upon to inform this court about the following:

1. *The date on which conditions imposed by this court are satisfied;*

Bail Application No.: 1664/2020
State Vs Sameer
FIR No. 11109/2020
P. S. Rajinder Nagar
U/s: 379, 411, 34 IPC

2. *The date of release of prisoner from jail;*
3. *Date of ultimate release of prisoner in case the prisoner is in jail in some other case.*

The copy of this order be sent to **Ld. MM** and also to the **Superintendent Jail** who shall also inform this court about all the three aspects as contained in the para herein above. The Superintendent Jail is also directed to inform this court if the prisoner is willingly not furnishing the personal bond or in case if he is unable to furnish the surety or any other reason given by the prisoner for not filing the bonds. One copy of this order be also sent to the **SHO Concerned** to ensure compliance.

With these observations present bail application is disposed of. Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Further copy of this order be sent to Jail Superintendent concerned, IO and SHO. Copy of order be uploaded on the website.

The observations made in the present interim bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.

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ASJ-04(Central/Delhi/04/11/2020)

Bail Application No.: 1664/2020
State Vs Sameer
FIR No. 11109/2020
P. S. Rajinder Nagar
U/s: 379, 411, 34 IPC

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

BAIL APPLICATION No.:1666/2020

FIR No. :255/2020

PS: Kamla Market

STATE Vs Sunil @ Baledachi s/o Achhe Lal

U/S: 25(1) (b) 54, 59 Arms Act

04.11.2020

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

Learned counsel for applicants/accused through VC.

Vide this order, bail application of accused Sunil @ Baledachi s/o Achhe Lal u/s 439 Cr.PC dated 28/10/2020 filed through counsel is disposed off.

It is stated in the application that nothing incriminating material has been recovered from the possession of the applicant or at his instance; that the alleged recovery has been planted upon him; that applicant had gone to see Ramleela at Ramleela ground where he alongwith other boys was caught by the police and brought to the police station. It is further stated that all the other boys were let free by the police except applicant only because he could not contact his parents and falsely implicated him in this case; that his earlier bail application was dismissed by Learned MM vide order dated 22/10/2020. As such, it is prayed that he be granted regular bail.

On the other hand, it is argued by the learned Addl.PP for the State and as also mentioned in reply filed by IO that the offence committed by the accused is serious in nature; that his family members have no control

FIR No. :255/2020
PS: Kamla Market
STATE Vs Sunil @ Baledachi s/o Achhe Lal
U/S: 25(1) (b) 54, 59 Arms Act

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on him, hence, there are chances that he will abscond or threaten the witnesses if released on bail; that he is a habitual criminal and previously involved in criminal cases; that buttondar knife was recovered from his possession. As such, present bail application is opposed.

I have heard both the sides.

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

of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

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

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

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

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

At this stage , it can also be fruitful to note that requirements for

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

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for grant or refusal of bail to an accused in a non-bailable offence like, (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) Nature of accusation and evidence therefor, (iii) Gravity of the offence and punishment which the conviction will entail, (iv) Reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, (v) Character and behavior of the accused, (vi) Means, position and standing of the accused in the Society, (vii) Likelihood of the offence being repeated, (viii) Reasonable apprehension of the witnesses being tampered with, (ix) Danger, of course, of justice being thwarted by grant of bail, (x) Balance between the rights of the accused and the larger interest of the Society/State, (xi) Any other factor relevant and peculiar to the accused. (xii) While a vague allegation that the accused may

tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. Furthermore, in the landmark judgment of **Gurucharan Singh and others v. State** (AIR 1978 SC 179), it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

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

it cannot make a detailed and in-depth analysis of the materials and record findings on their acceptability or otherwise which is essentially a matter of trial. Court is not required to undertake meticulous examination of evidence while granting or refusing bail u/s 439 of the CrPC.

In the present case, the maximum punishment provided for the offences alleged against the present accused is less than 7 years . It is a matter of record that accused was arrested on 18/10/2020. As such, it can be noted that even the period to seek police custody remand is now over. Further, the alleged knife is already recovered from the spot. As such nothing remains to be recovered at his instance. Further all the witnesses are police witnesses, therefore, there is no possibility of threatening the witness also.

In above facts and circumstances, such present accused person is granted bail subject to furnishing of personal bond in the sum of **Rs. 20,000/- with one sound surety of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

- i) Applicant shall not flee from the justice;*
- ii) Applicant shall not tamper with the evidence;*
- iii) Applicant shall not threaten or contact in any manner to the prosecution witnesses ,*
- iv) Applicant shall not leave country without permission;*
- v) Applicant shall convey any change of address immediately to the IO and the court;*
- vi) Applicants shall also provide his/her mobile number to the IO;*
- vii) Applicant shall mark his /her attendance*

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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 till the chargesheet is filed;

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. till the chargesheet is filed.

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

x) That he / she will cooperate with the investigation / IO / SHO concerned and will appear before IO / Trial Court as and when called as per law.

xi) He will not indulge in any kind of activities which are alleged against him / her in the present case.

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

I may observe that certain guidelines had been laid down by the Hon'ble Delhi High Court in the case of "**Ajay Verma Vs. Government of NCT of Delhi**" WP (C) 10689/2017 dated 08.03.2018 wherein it was

observed and I quote as under:

“..... The trial courts should not only be sensitive but extremely vigilant in cases where they are recording orders of bail to ascertain the compliance thereof.....When bail is granted, an endorsement shall be made on the custody warrant of the prisoner, indicating that bail has been granted, along with the date of the order of bail.

- a) In case of inability of a prisoner to seek release despite an order of bail, it is the judicial duty of the trial courts to undertake a review for the reasons thereof.*
- b) Every bail order shall be marked on the file.*
- c) It shall be the responsibility of every judge issuing an order of bail to monitor its execution and enforcement.*
- d) In case a judge stands transferred before the execution, it shall be the responsibility of the successor judge to ensure execution.....”*

I note that in the present case the bail bonds have been directed to be furnished before the Ld. Trial Court/ Ld. MM and hence in terms of the above observations, the Ld. MM is impressed upon to inform this court about the following:

- 1. The date on which conditions imposed by this court are satisfied;*
- 2. The date of release of prisoner from jail;*
- 3. Date of ultimate release of prisoner in case the prisoner is in jail in some other case.*

The copy of this order be sent to **Ld. MM** and also to the **Superintendent Jail** who shall also inform this court about all the three aspects as contained in the para herein above. The Superintendent Jail is also directed to inform this court if the prisoner is willingly not furnishing the personal bond or in case if he is unable to furnish the surety or any other

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reason given by the prisoner for not filing the bonds. One copy of this order be also sent to the **SHO Concerned** to ensure compliance.

With these observations present bail application is disposed of. Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Further copy of this order be sent to Jail Superintendent concerned, IO and SHO. Copy of order be uploaded on the website.

The observations made in the present interim bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.

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

Bail Application: 1677/2020

State Vs Sunny Sethi
FIR No. 201/2020
PS.: I.P. Estate
U/s: 420,411 IPC

04.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Sh. Manish Arora, Ld. Counsel for applicant through VC.

Vide this order, the bail application under section 439 Cr.P.C. on behalf of accused dated 02.11.2020 filed through counsel is disposed off.

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

In the present case, it is argued on behalf of accused that he is in JC since 02.10.2020. That his mother is not well . That case property is already recovered and he is no more required for the purpose of investigation. That there is a spread of corona virus including inside the jail. That applicant is sole bread earner of his family and need to take care of his ailing mother. There is no previous conviction of the present accused but he is falsely implicated in another similar matter. That he got roots in the society. As such, it is prayed that he be granted regular bail.

On the other hand, it is stated by the IO, as also argued by the learned Addl.PP for the state that his regular bail application is already dismissed recently on 21/10/2020 and there is no material change in circumstances. That offense in question is a nuisance to public at large. That present accused met the complainant near ITO and asked the complainant Rs.3,000/- and his documents on a

promise to get him a job in government and thereafter he disappeared with Rs. 1000/-, which was given by the complainant along with documents. During the course of the investigation, such documents of complainant was recovered from him. That he is required in other similar FIR also.

I find force in the arguments of learned Addl.PP for the state. Investigation is at the initial stage. There is no material changes in facts and circumstances of the present bail application from the earlier application which was dismissed by this court vide order dated 21/10/2020. As such, this court is not inclined to grant the relief as sought in the present application on the same grounds. 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. Copy of this order be sent to Jail Superintendent concerned through electronic mode.

The observations made in the present interim bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.

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**(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi
04.11.2020**

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

Bail Application: 1676/2020

State Vs Sunny Sethi
FIR No. 272/2020
PS.: I.P. Estate
U/s: 420,406, 411 , 379 IPC

04.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Sh. Manish Arora, Ld. Counsel for applicant through VC.

Vide this order, the bail application under section 439 Cr.P.C. on behalf of accused dated 02.11.2020 filed through counsel is disposed off.

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

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

cogent grounds therefor. The fundamental principle of our system of justice is that a person should not be deprived of his liberty except for a distinct breach of law. If there is no substantial risk of the accused fleeing the course of justice, there is no reason why he should be imprisoned during the period of his trial. The basic rule is to release him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

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

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

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

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

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

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

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

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

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

In the present case, it is argued on behalf of accused that he is in JC since 02.10.2020. That case property is already recovered and he is no more required for the purpose of investigation. That there is a spread of corona virus including inside the jail. That applicant is sole bread earner of his family and need to take care of his ailing mother. There is no previous conviction of the present accused but he is falsely implicated in another similar matter. That he got roots in the society. As such, it is prayed that he be granted regular bail.

On the other hand, it is stated by the IO, as also argued by the learned Addl.PP for the state that his regular bail application is already dismissed recently on 21/10/2020 and there is no material change in circumstances. That present accused met complainant Urmila Gupta on the pretext of securing a personal loan for her and took Rs. 550/- from her alongwith her mobile phone. Such mobile phone is recovered from him while investigation of a connected FIR no. 201/2020. That he is required in other similar FIR also.

I find force in the arguments of learned Addl.PP for the

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state. Investigation is at the initial stage. There is no material changes in facts and circumstances of the present bail application from the earlier application which was dismissed by this court vide order dated 21/10/2020. As such, this court is not inclined to grant the relief as sought in the present application on the same grounds. 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. Copy of this order be sent to Jail Superintendent concerned through electronic mode.

The observations made in the present interim bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.

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**(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi
04.11.2020**