

State Vs. Tauhin @ Bhura

FIR No: 113/20

Under Section: 25/54/59 Arms Act

PS: Gulabi Bagh

31.07.2020

Through video conferencing

This is fresh application for grant of bail filed on behalf of the applicant.

Present: Sh. Alok Saxena, Ld. APP for the State.

Sh. Satish Kumar, Ld. Counsel for the applicant.

Reply filed by the IO. Copy supplied to Ld. Defence Counsel electronically.

Ld. Defence counsel has argued that accused has been falsely implicated in the present case and nothing incriminating has been recovered from the possession or at the instance of the applicant. It is argued that the applicant used to ply battery rickshaw and in his absence his family, consisting of his wife and six minor children are at the verge of starvation. It is further argued that the investigation has been completed and accused is not more required for investigation.

Per contra, Ld. APP for State has argued for dismissal of bail on the ground that allegations against accused are grave and serious as a country made pistol with cartridge was recovered from the possession of accused.

I have heard rival contentions and perused the record.

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The case of the prosecution in nutshell is that the accused was found in possession of a country made pistol and cartridge on the alleged date of incident. The accused is no more required for investigation as recovery has already been effected. Therefore, in the facts and circumstances of the case and considering the current situation of pandemic, I am of the view, that no purpose would be served by keeping the accused behind bars. Accordingly, **accused/applicant Tauhin @ Bhura is admitted to bail on furnishing Personal Bond and Surety Bond in the sum of Rs. 10,000/- to the satisfaction of concerned Ld. Magistrate/Ld. Duty Magistrate.** Application stands disposed of accordingly.

Copy of the order be sent to concerned Ld. Magistrate/ jail superintendent/IO/SHO and Ld. Defence counsel through official e-mail.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
31.07.2020

State Vs. Bablendra Singh

FIR No: 279/2020

Under Section: 376/506 IPC

PS: Burari

31.07.2020

Through video conferencing

This is application for grant of bail filed on behalf of the applicant.

**Present: Sh. Alok Saxena, Ld. APP for the State.
Sh. Anees Ahmad Khan, Ld. Counsel for the applicant.**

IO is reported to be not available today as informed by Ld. APP for State. At request of Ld. APP for State, matter stands adjourned for 07.08.2020 for arguments. IO/SHO is directed to join the proceeding through VC on next date of hearing.

Reader of this court is directed to inform the next date of hearing to Ld. Defence Counsel telephonically as Ld. Counsel is not audible due to some technical glitch.

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**(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
31.07.2020**

State Vs. Hamesh

FIR No: 193/20

Under Section: 356/379/411/34 IPC

PS: Subzi Mandi

31.07.2020

Through video conferencing

This is application for grant of bail filed on behalf of the applicant.

Present: Sh. Alok Saxena, Ld. APP for the State.

Sh. Pravin Kumar Pachauri, Ld. Counsel for the applicant.

Reply filed by the IO. Copy supplied to Ld. Defence Counsel electronically.

Ld. Counsel is seeking regular bail of accused Hamesh on the ground that accused has been falsely implicated in the present case and nothing incriminating has been recovered from his possession. It is argued that accused is not a previous convict or habitual offender. It is further argued that accused is the sole bread earner of his family. On these grounds, Ld. Counsel requests for grant of bail.

Per contra, Ld. APP for State has argued for dismissal of bail on the ground that the allegations against the accused/applicant are grave and serious as cases of snatching are increasing day by day in the city. It is argued that the accused was arrested at the spot and the stolen mobile phone was also recovered from his possession. It is argued that accused is previously involved

in six other cases. Ld. Defence Counsel, however, refutes the said contention, by arguing that accused is involved in only other two other cases apart from present case.

I have heard rival contentions and perused the record.

The allegations against the accused are that on 30.06.2020, he snatched the mobile phone of complainant and when he was trying to flee away with the booty, he was caught near the spot by a police official. The stolen mobile phone was also recovered from the possession of the accused.

The incident of snatching are on rise in the city of Delhi. The investigation is still at nascent stage. The accused is reportedly involved in other cases also. Therefore, considering the facts and circumstances of the present case, nature of allegations and past antecedents of the accused, I am not inclined to grant bail to accused Hamesh. **His application for grant of bail is accordingly dismissed.**

However, before parting, I may observe that Ld. Defence Counsel has been apprised that he may move an application for grant of interim bail before concerned court of Ld. Magistrate in terms of guidelines dated 18.05.2020 of High Powered Committee.

Copy of this order be sent to concerned Ld. Magistrate, concerned jail superintendent, SHO/IO as well as Ld. Defence Counsel through official email.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
31.07.2020

State Vs. Sachin Kumar

FIR No: 280/19

Under Section: 420/120B IPC r/w Section 66 of Information and
Technology Act

PS Timarpur (Crime Branch)

31.07.2020

Through video conferencing

This is fresh application for grant of anticipatory bail filed on behalf of the
applicant.

Present: Sh. Alok Saxena, Ld. APP for the State.

Sh. Ram Singh Baliyan, Ld. Counsel for the applicant.

Reply filed by the IO. Copy supplied to Ld. Defence Counsel
electronically.

Despite repeated efforts, due to some technical issue from the side
of Ld. Defence Counsel, video conferencing could not be conducted.

In these circumstances, matter stands adjourned for arguments
on 11.08.2020. Reader of this court is directed to inform the next date of
hearing to Ld. Defence Counsel telephonically.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
31.07.2020

State Vs. Sonu @ Naresh

FIR No: 26/20

Under Section: 356/379/411/34 IPC

PS: Civil Lines

31.07.2020

Through video conferencing

This is fresh application for cancellation of bail filed on behalf of investigating officer (IO).

**Present: Sh. Alok Saxena, Ld. APP for the State.
IO/ASI Bindeshwari Prasad..**

The present application has been filed by IO. However, same has not been forwarded by Ld. APP for State in terms of Punjab Police Rules. It is submitted by Ld. APP that prosecution was not consulted while moving the instant application.

In these circumstances, the application is directed to be returned to the IO/SHO. However, State shall be at liberty to move the application afresh in terms of statutory provisions and relevant rules.

Application stands disposed of accordingly.

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**(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
31.07.2020**

State Vs. Ranjeet

FIR No: 293/20

Under Section: 399/402/411/120B/34 IPC and 25/54/59 Arms Act

PS: Burari

31.07.2020

Through video conferencing

This is application for grant of bail filed on behalf of the applicant.

Present: Sh. Alok Saxena, Ld. APP for the State.

Sh. Virender Singh, Ld. Counsel for the applicant.

Reply filed by the IO. Copy supplied to Ld. Defence Counsel electronically.

Part argument heard.

Ld. APP for State requests for adjournment to address the remaining arguments on the ground that he requires certain clarifications from IO. At request, put up for remaining arguments on 06.08.2020.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
31.07.2020

State Vs. Mohan Lal @ Payare Mohan

FIR No: 223/20

Under Section: 323/452/506/34 IPC

PS: Burari

31.07.2020

Through video conferencing

This is application for grant of anticipatory bail filed on behalf of the applicant.

Present: Sh. Alok Saxena, Ld. APP for the State.
Sh. Anand Srivastava, Ld. Counsel for the applicant.
Sh. Rajender Prasad, Ld. Counsel for Complainant.

Report filed by the IO in terms of previous directions along with copy of MLC of victims. As per same, the Section 325 IPC has been added in the instant case in view of doctor opining the injuries suffered by complainant Harish Kumar as grievous. Copy supplied to defence.

Ld. Counsel for accused has argued that accused has been falsely implicated in the present case and he has nothing to do with the alleged crime. It is argued that complainant has levelled false allegations against applicant.

Per contra Ld. APP for State has opposed the application for anticipatory bail on the ground that accused has been evading and has not joined the investigation in the present case. It is further argued that custodial interrogation of the accused is required for recovery of weapon of offence and

for arrest of co-accused persons.

I have heard rival contentions and perused the record.

The case of prosecution in nutshell is that on alleged date of incident, applicant/accused along with other co-accused trespassed into the house of complainant being armed with dandas and assaulted the complainant and his friend Bhanu. The parties were having dispute over non-payment of rent. The injuries suffered by complainant are grievous and prima facie do not appear to be self inflicted.

Hon'ble High of Delhi in the case of **Homi Rajvansh Vs. Central Bureau of Investigation, 185 (2011) DLT 774** has held as follows:

"There is a perceptible difference in the results of the interrogation when a person who has an order of anticipatory bail in his pocket and goes to the investigation agency. He is bound not to cooperate and not to give the correct answer to the questions put to him to reach at the bottom of the case as against the person who is in custody or who does not have the protection of the anticipatory bail."

In **State (CBI) Vs. Anil Sharma, 1997 CrL LJ 4414**, Hon'ble Apex Court has observed as under:

"Success in such interrogation would allude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual."

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Therefore, considering the totality of the circumstances of the case and since custodial interrogation of accused would be required for recovery of the weapon of offence and for effective investigation, I am not inclined to grant anticipatory bail to applicant. **Accordingly, the instant application seeking anticipatory bail stands dismissed.**

Copy of the order be sent to concerned Ld. Magistrate/ jail superintendent/IO/SHO and Ld. Defence counsel through official e-mail.

I may clarify that nothing expressed herein shall tantamount to an expression on the merit of present case.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
31.07.2020

State Vs. Fardin

E-FIR No: 38150/19

Under Section: 379/411/34 IPC

PS: Moris Nagar

31.07.2020

Through video conferencing

This is application for grant of bail filed on behalf of the applicant/parokar of accused namely Nadimuddin.

Present: Sh. Alok Saxena, Ld. APP for the State.
Mohd. Tasleem, Ld. Counsel for the applicant.

Reply filed by the IO. Copy supplied to Ld. Defence Counsel electronically.

Ld. Counsel for accused has argued that accused has been falsely implicated in the present case and he is in judicial custody since 17.07.2020. It is argued that nothing has been recovered from the possession of the accused and the alleged recovery is planted one. It is further argued that investigation in the instant case has been completed and the accused is no more required for any purpose.

Per contra, Ld. APP for State has opposed the application for grant of bail on the ground that offence against the accused is grave and serious. It is argued that accused has previous involvement in other cases as well apart from

the present case. It is argued that accused may commit similar offence, if enlarged on bail.

I have heard rival contentions and perused the record.

The case of the prosecution in nutshell is that the accused was found in possession of a stolen motorcycle which was stolen on 25.10.2019 from possession of complainant. The accused is no more required for investigation as recovery has already been effected. Therefore, in the facts and circumstances of the case and considering the current situation of pandemic, I am of the view, that no purpose would be served by keeping the accused behind bars. Accordingly, accused/applicant Fardin is admitted to bail on furnishing Personal Bond and Surety Bond in the sum of Rs. 10,000/- to the satisfaction of concerned Ld. Magistrate/Ld. Duty Magistrate. Application stands disposed of accordingly.

Copy of the order be sent to concerned Ld. Magistrate/ jail superintendent/IO/SHO and Ld. Defence counsel through official e-mail.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
31.07.2020

State Vs. Seema

FIR No: 299/2020

Under Section: 33 Delhi Excise Act

PS: Civil Lines

31.07.2020

Through video conferencing

This is application for grant of bail filed on behalf of the applicant.

Present: Sh. Alok Saxena, Ld. APP for the State.
Sh. Sanjay Kumar, Ld. Counsel for the applicant.

Nominal roll of the accused has been received. As per same, no other case is pending against accused.

Ld. Counsel is seeking regular bail of accused Seema on the ground that accused is in judicial custody since 20.07.2020. It is argued that accused has been falsely implicated in the present case and the recovery has been planted upon the accused. It is further argued that since recovery has already been effected and investigation is complete, therefore accused may be enlarged on bail in the facts and circumstances of the case.

Per contra, Ld. APP for State has argued for dismissal of bail on the ground that investigation is at nascent stage. He further submits that report of IO regarding previous involvement is required to be verified.

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Be that as it may, I proceed to dispose of the application on the basis of material available on record.

I have heard rival contentions and perused the record.

The case of the prosecution in nutshell is that on 20.07.2020 at about 01.15 p.m. accused was found in possession of 149 quarter bottles of liquor of different make without any valid license.

The accused is a woman and she is no more required for investigation as recovery has already been effected. In my view, no purpose would be served by keeping the accused behind bars. Considering the the facts and circumstances of the case, nature of offence and keeping in mind the current situation of pandemic, **accused/applicant Seema is admitted to bail on furnishing Personal Bond and Surety Bond in the sum of Rs. 10,000/- to the satisfaction of concerned Ld. Magistrate/Ld. Duty Magistrate.** Application stands disposed of accordingly.

Copy of the order be sent to concerned Ld. Magistrate/ jail superintendent/IO/SHO and Ld. Defence counsel through official e-mail.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
31.07.2020

State Vs. Avtar Chaudhary

FIR No: 223/20

Under Section: 323/325/452/506/34 IPC

PS: Burari

31.07.2020

Through video conferencing

This is application for grant of anticipatory bail filed on behalf of the applicant.

Present: Sh. Alok Saxena, Ld. APP for the State.
Sh. Anand Srivastava, Ld. Counsel for the applicant.
Sh. Rajender Prasad, Ld. Counsel for Complainant.

Report filed by the IO in terms of previous directions along with copy of MLC of victims. As per same, the Section 325 IPC has been added in the instant case in view of doctor opining the injuries suffered by complainant Harish Kumar as grievous. Copy supplied to defence.

Ld. Counsel for accused has argued that accused has been falsely implicated in the present case and he has nothing to do with the alleged crime.

Per contra Ld. APP for State has opposed the application for anticipatory bail on the ground that accused has been absconding and has not joined the investigation in the present case. It is further argued that custodial interrogation of the accused is required for recovery of weapon of offence and for arrest of co-accused persons.

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I have heard rival contentions and perused the record.

The case of prosecution in nutshell is that on alleged date of incident, applicant/accused along with other co-accused trespassed into the house of complainant being armed with *dandas* and assaulted the complainant and his friend Bhanu. The parties were having dispute over non-payment of rent. The injuries suffered by complainant are grievous and prima facie do not appear to be self inflicted.

Hon'ble High of Delhi in the case of **Homi Rajvansh Vs. Central Bureau of Investigation, 185 (2011) DLT 774** has held as follows:

"There is a perceptible difference in the results of the interrogation when a person who has an order of anticipatory bail in his pocket and goes to the investigation agency. He is bound not to cooperate and not to give the correct answer to the questions put to him to reach at the bottom of the case as against the person who is in custody or who does not have the protection of the anticipatory bail."

In **State (CBI) Vs. Anil Sharma, 1997 CrL LJ 4414**, Hon'ble Apex Court has observed as under:

"Success in such interrogation would allude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual."

Therefore, considering the totality of the circumstances of the case and since custodial interrogation of accused would be required for recovery of

the weapon of offence and for effective investigation, I am not inclined to grant anticipatory bail to applicant. Accordingly, the instant application seeking anticipatory bail stands dismissed.

Copy of the order be sent to concerned Ld. Magistrate/ jail superintendent/IO/SHO and Ld. Defence counsel through official e-mail.

I may clarify that nothing expressed herein shall tantamount to an expression on the merit of present case.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
31.07.2020

State Vs. Mayank

FIR No: 178/20

Under Section: 307/308/34 IPC and 25/27/54 Arms Acts

PS: Subzi Mandi

31.07.2020

Through video conferencing

This is an application for grant of bail filed on behalf of the applicant.

Present: Sh. Alok Saxena, Ld. APP for the State.
Sh. Vivek Aggarwal, Ld. Counsel for the applicant.
Sh. Dilip Rana, Ld. Counsel for complainant.

Reply filed by the IO. Copy supplied to Ld. Defence Counsel electronically.

This is second application moved on behalf of the applicant seeking regular bail. The first of such application was dismissed by Ld. ASJ (on duty) vide detailed order dated 13.07.2020. Ld. Defence Counsel has vehemently argued that there is change of circumstance as the complainant/victims have since given an affidavit that the matter has been settled with applicant/accused. Ld. Counsel for complainant supports the said submissions of Ld. Defence Counsel by arguing that parties have buried their differences amicably.

Per contra, Ld. APP for State has argued for dismissal of instant

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application on the ground that there is no change of circumstance since passing of order dated 13.07.2020. It is further argued that since the offence U/s 307 IPC is non-compoundable, therefore, any settlement between parties is hardly of any relevance.

I have heard rival contentions and perused the record.

The earlier application of accused was dismissed by Ld. ASJ vide detailed order dated 13.07.2020 while considering all the contentions which have been raised in present application. Perusal of order dated 13.07.2020 reveals that Ld. ASJ while noting down facts in details has observed as follow:

“Allegations against accused/applicant are of serious nature. The offence in question was committed in a preplanned manner. The investigation of the case is at very initial stages and co-accused persons are yet to be arrested. Possibility of tempering with the evidence/witnesses cannot be ruled out at this stage.

Keeping in view the aforesaid facts and circumstances, I find no merits in the present application. The same is hereby dismissed and disposed of accordingly.”

Therefore, it is clear that the earlier application moved on behalf of accused/applicant was dismissed by Ld. ASJ keeping in view the totality of facts and circumstances and considering the gravity of the allegations. There is no change of circumstance since passing of said order.

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:

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"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 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."

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

Ld. Counsel for accused has vehemently argued that matter has been settled with the complainant and Ld. Counsel for complainant is ready to make submission in this regard. However in my considered view, the matter being non-compoundable, any compromise between parties would hardly be of any relevance for outcome of present bail application more so when the allegations are quite grave in nature. It appears that the accused is attempting to interfere with the fair course of trial by contacting the victims and trying to influence them.

In view of the aforesaid discussion, application for bail moved on behalf of the applicant Mayank stands dismissed.

Copy of the order be sent to concerned Ld. Magistrate/ jail superintendent/IO/SHO and Ld. Defence counsel through official e-mail.

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