

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

ANTICIPATORY Bail Application No.: 1919/2020

State v. Mohd. Washid

FIR No. : 170/2020
PS: Kamla Market
U/S: 356,379 IPC

27.11.2020

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

1. **Vide this order**, present **anticipatory bail application** dated 19.11.2020 u/s 438 Cr.PC **filed by accused/applicant Md Washid @ Soyab is disposed of.**
2. In nut shell, it is argued on behalf of such applicant that he is young boy of 22 years old. He has roots in the society. That he received a notice u/s 82 Cr.P.C. issued by the court of Ld. MM-08, Tis Hazari courts, Central district. As such, he came to know about the criminal case pending against him. It is further argued that he is ready to join the investigation of the present case as and when so directed. As such, it is prayed that he be granted anticipatory bail.
3. On the other hand, in reply filed by IO and as also argued by Ld. Addl. PP for the state, it is argued that present accused alongwith co-accused snatched the mobile phone of the complainant and run away on a scooty. That during investigation, it came to the knowledge that such stolen MI phone was in the custody of present applicant. That he could not be searched despite efforts made so far. As such earlier NBW was issued against the present accused and thereafter process u/s 82 Cr.P.C.

was initiated. That he is also involved in the other criminal case in the past. That his custodial interrogation is required. Further, his TIP is to be conducted. As such, present anticipatory bail application is opposed.

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

5. There are specific allegations against the accused person. Further, offence alleged is a nuisance to society at large. His custodial interrogation is required for recovering the stolen property as well as for TIP. Further, process u/s 82 Cr.P.C. is already initiated against the accused. As such, under these circumstances, this court do not find merit to grant the relief sought in the present application. **With these observations present applications are dismissed.**

6. But before parting, it is pertinent to note that maximum punishment for the offence alleged is less than seven years. Therefore, IO/SHO concerned is duty bound to consider and take into account the directions issued by Hon'ble Supreme Court in the case of "Arnesh Kumar".

7. The observations made in the present 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.

8. **Copy of this order be given to applicants as well as a copy be sent to IO/SHO concerned through electronic mode.**

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(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
Central Distt/Delhi
27.11.2020

: 1 :

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

Bail Application No.: 1899/2020

State v. Love

FIR No. : 492/2020

P. S: Karol Bagh

U/s:356,379,411 r/w 34 IPC

27.11.2020.

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

Vide this order, regular bail application u/s 439 Cr.PC dated 12.11.2020 filed through counsel is disposed of.

It is stated in such application that he has been falsely implicated in the present case; that he is in JC since 08.11.2020. That he is no more required for further investigation. That nothing is recovered from him except the planted recovery. That there is a spread of corona virus including inside the jail. That bail is a rule and jail is exception. That there is no previous criminal record of the present accused. 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 learned Addl.PP for the State that present accused alongwith co-accused snatched purse of the complainant which contained Rs. 10,900/- and some cards and run away with the same. That during investigation the instance and identification of the complainant, present accused Love Chaudhary arrested and part of stolen money of Rs.3,900/- was recovered from his possession. As such, present bail application is strongly opposed.

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

State v. Love
FIR No. : 492/2020
P. S: Karol Bagh
U/s:356,379,411 r/w 34 IPC

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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

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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

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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

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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 08/11/2020. Further, as far as present accused is

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concerned, nothing remains to be recovered at his instance. In fact, the period for seeking police remand is already over. As such, no purpose would be served by keeping such accused in JC. Trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case of present nature. In present case, no previous conviction or even involvement in criminal cases is placed on record by the IO.

In above facts and circumstances, such 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 Delhi without prior permission of the Trial Court concerned.

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 and further share his location through mobile phone once in everyweek till filing of chargesheet and thereafter as may be directed by the learned Trial Court.

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:

- a) *The date on which conditions imposed by this court are satisfied;*
- b) *The date of release of prisoner from jail;*
- c) *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

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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.

The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain through electronic mode. Copy of this order be sent to concerned Jail Superintendent. Copy of this order be sent to IO / SHO concerned.

The observations made in the present 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)
ASJ-04(Central/Delhi)
27.11.2020

: 1 :

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

Application No.: 1615/2020
State Vs Simranjeet Singh
FIR No.57/2020
P. S. I.P. Estate
U/s: 379, 356, 411 IPC

27/11/2020

Present: Mr. Pawan Kumar, learned Addl.PP for the State through VC.
Mr. Sachin Jain, learned LAC for applicant through VC.
Mr. Manjeet Singh, private counsel is also present through VC.

This application is moved by the applicant / accused through Legal Aid but now it is submitted by learned counsel Mr. Manjeet Singh that he has filed vakalatnama. As such, learned Legal Aid counsel stands discharged.

Vide this order, bail application u/s 439 Cr.PC dated 21/10/2020 filed by applicant through counsel is disposed off.

It is stated in the application that he is in JC since long; nothing has been recovered from the possession of the accused or at his instance except the planted case property; that investigation is complete and he is no more required for investigation; that allegations against the accused are only under section 411 IPC; that he is the only bread earner of his family and due to pandemic situation his family is entirely dependent upon him and there is no one to look after his family; that he is neither a convict nor habitual offender; As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by IO, as also argued by learned substitute Addl.PP for the State it is stated that stolen mobile phone in question is recovered at his instance; it is further stated that there a number of similar cases pending against him; that he may commit the similar offence, if

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FIR No.57/2020
P. S. I.P. Estate
U/s: 379, 356, 411 IPC

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he is released on bail, he may threaten or influence the witnesses. As such, present bail application is strongly 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

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FIR No.57/2020
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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

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P. S. I.P. Estate
U/s: 379, 356, 411 IPC

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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

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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 17/06/2020. The allegations against the accused are u/s 411 IPC only. Further, as far as present accused is concerned, nothing remains to be recovered at his instance. In fact, the period for seeking police remand is already over. As such, no purpose would be served by keeping such

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U/s: 379, 356, 411 IPC

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accused in JC. Trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case of present nature. In present case, no previous conviction or even involvement in criminal cases is placed on record by the IO.

In above facts and circumstances, such 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 Delhi without prior permission of the Trial Court concerned.

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 and further share his location through mobile phone once in everyweek till filing of chargesheet and thereafter as may be directed by the learned Trial Court.

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

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State Vs Simranjeet Singh
FIR No.57/2020
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U/s: 379, 356, 411 IPC

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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:

- a) *The date on which conditions imposed by this court are satisfied;*
- b) *The date of release of prisoner from jail;*
- c) *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.

The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain through electronic mode. Copy of this

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order be sent to concerned Jail Superintendent. Copy of this order be sent to IO / SHO concerned. Copy of order be uploaded on website.

The observations made in the present 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.

NAVEEN KUMAR KASHYAP
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Date: 2020.11.27 18:50:23 +05'30'
(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi)
27.11.2020

Application No.: 1615/2020
State Vs Simranjeet Singh
FIR No.57/2020
P. S. I.P. Estate
U/s: 379, 356, 411 IPC

: 1 :

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

Application No.: 1617/2020
State Vs Simranjeet Singh
FIR No.146/2020
P. S. I.P. Estate
U/s: 379, 356, 411 IPC

27/11/2020

Present: Mr. Pawan Kumar, learned Addl.PP for the State through VC.
Mr. Sachin Jain, learned LAC for applicant through VC.
Mr. Manjeet Singh, private counsel is also present through VC.

This application is moved by the applicant / accused through Legal Aid but now it is submitted by learned counsel Mr. Manjeet Singh that he has filed vakalatnama. As such, learned Legal Aid counsel stands discharged.

Vide this order, bail application u/s 439 Cr.PC dated 21/10/2020 filed by applicant through counsel is disposed off.

It is stated in the application that he is in JC since long; nothing has been recovered from the possession of the accused or at his instance except the planted case property; that investigation is complete and he is no more required for investigation; that allegations against the accused are only under section 411 IPC; that he is the only bread earner of his family and due to pandemic situation his family is entirely dependent upon him and there is no one to look after his family; that he is neither a convict nor habitual offender; As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by IO, as also argued by learned substitute Addl.PP for the State it is stated that stolen mobile phone in question is recovered at his instance; it is further stated that there a number of similar cases pending against him; that he may commit the similar offence, if

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he is released on bail, he may threaten or influence the witnesses. As such, present bail application is strongly 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

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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

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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

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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 17/06/2020. The allegations against the accused are u/s 411 IPC only. Further, as far as present accused is concerned, nothing remains to be recovered at his instance. In fact, the period for seeking police remand is already over. As such, no purpose would be served by keeping such

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accused in JC. Trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case of present nature. In present case, no previous conviction or even involvement in criminal cases is placed on record by the IO.

In above facts and circumstances, such 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 Delhi without prior permission of the Trial Court concerned.

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 and further share his location through mobile phone once in everyweek till filing of chargesheet and thereafter as may be directed by the learned Trial Court.

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

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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:

- a) *The date on which conditions imposed by this court are satisfied;*
- b) *The date of release of prisoner from jail;*
- c) *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.

The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain through electronic mode. Copy of this

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order be sent to concerned Jail Superintendent. Copy of this order be sent to IO / SHO concerned. Copy of order be uploaded on website.

The observations made in the present 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.

NAVEEN KUMAR
KASHYAP
(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi)
27.11.2020

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

Bail Application: 1986/2020

State Vs Jai Karan
FIR No. 468/2015
PS.: Rajinder Nagar
U/s: 420, 468, 471 IPC

27.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Sh. Sushil Kumar Sharma, Ld. Counsel for applicant / accused through VC.
Mr. Ajay Sharma, learned counsel for complainant through VC.

1. Vide this order, the bail application under section 438 Cr.P.C. on behalf of accused dated 21.11.2020 filed through counsel is disposed off.

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

3. In the present case, it is argued on behalf of accused that he alongwith Sanjay Bhati and Satpal Yadav are / were the owner of residential plot in question. It is further argued sale deed dated 16/11/2013 and also Khatoni as well as a letter dated 29/07/2020 filed as annexure A,B and C are also in their favour. That co-accused Sanjay Bhati and Satpal Yadav entered into an agreement on a plain paper dated 09/01/2014 with the present complainant for a sum of Rs. 1.35 crore; that complainant in connivance with police has filed present baseless FIR against accused; that infact complainant himself failed to comply such agreement and failed to pay part payment of Rs.25 lac. That there is delay in registration of FIR. That accused is a senior citizen of about 67 years old. It is further

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argued that plot in question is not acquired by the Noida Authority. It is further argued that present applicant infact never came to Delhi to execute any documents etc. It is further argued that he has reasonable apprehension that he may be arrested in the present case without any legal basis.

4. On the other hand, it is argued by the counsel for complainant that anticipatory bail application of one of the co-accused was rejected in December, 2019. Further regular bail application of the co-accused Satpal is rejected recently on 23/11/2020. It is further stated that accused person cheated the complainant of his hard earned money.

5. Further, in reply dated 26/11/2020 filed by SI Mahipal Singh, as also argued by the learned Addl.PP for the state that present accused alongwith co-accused persons tried to sell a plot at Sector 110 Noida UP which plot was already acquired by the Noida Authority from its previous owner. Such, accused person even affixed false photograph on the alleged property papers of the plot in question. That such accused person failed to provide previous chain of papers relating to property in question despite that they received a payment of Rs. 30 lacs from the complainant. It is further argued that present applicant is the main accused; he alongwith his associates made the forged documents of acquired land. Cheated amount is yet to be recovered from the accused person. further original fabricated documents are yet to be recovered and investigation is still pending at crucial stage. As such, present bail application is strongly opposed.

6. At this stage it may be noted that in the case of **Bhadresh Bipinbhai Sheth Vs. State Of Gujarat & Another**(Criminal Appeal Nos. 1134-1135 Of 2015, Arising Out Of Special Leave Petition (Crl.) Nos. 6028-6029 Of 2014), Hon'ble SC discussed and reviews the law relating to section 438 Cr.P.C.

6. A judgment which needs to be pointed out is a Constitution Bench

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Judgment of this Court in the case Gurbaksh Singh Sibbia and Other vs. State of Punjab(1980 AIR 1632 ; 1980 SCR(3) 383), The Constitution Bench in this case emphasized that provision of anticipatory bail enshrined in [Section 438](#) of the Code is conceptualised under [Article 21](#) of the Constitution which relates to personal liberty. Therefore, such a provision calls for liberal interpretation of [Section 438](#) of the Code in light of [Article 21](#) of the Constitution. The Code explains that an anticipatory bail is a pre- arrest legal process which directs that if the person in whose favour it is issued is thereafter arrested on the accusation in respect of which the direction is issued, he shall be released on bail. The distinction between an ordinary order of bail and an order of anticipatory bail is that whereas the former is granted after arrest and therefore means release from the custody of the police, the latter is granted in anticipation of arrest and is therefore, effective at the very moment of arrest. A direction under [Section 438](#) is therefore intended to confer conditional immunity from the 'touch' or confinement contemplated by [Section 46](#) of the Code. The essence of this provision is brought out in the following manner:

“26. We find a great deal of substance in Mr Tarkunde’s submission that since denial of bail amounts to deprivation of personal liberty, the court should lean against the imposition of unnecessary restrictions on the scope of [Section 438](#), especially when no such restrictions have been imposed by the legislature in the terms of that section. [Section 438](#) is a procedural provision which is concerned with the personal liberty of the individual, who is entitled to the benefit of the presumption of innocence since he is not, on the date of his application for anticipatory bail, convicted of the offence in respect of which he seeks bail. An over-generous infusion of constraints and conditions which are not to be found in [Section 438](#) can make its provisions constitutionally vulnerable since the right to personal freedom cannot be made to depend on compliance with unreasonable restrictions. The beneficent provision contained in [Section 438](#) must be

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saved, not jettisoned. No doubt can linger after the decision in [Maneka Gandhi v. Union of India](#), (1978) 1 SCC 248, that in order to meet the challenge of [Article 21](#) of the Constitution, the procedure established by law for depriving a person of his liberty must be fair, just and reasonable. [Section 438](#), in the form in which it is conceived by the legislature, is open to no exception on the ground that it prescribes a procedure which is unjust or unfair. We ought, at all costs, to avoid throwing it open to a Constitutional challenge by reading words in it which are not to be found therein.”

7. Though the Court observed that the principles which govern the grant of ordinary bail may not furnish an exact parallel to the right to anticipatory bail, still such principles have to be kept in mind, namely, the object of bail which is to secure the attendance of the accused at the trial, and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise, bail is not to be withheld as a punishment. The Court has also to consider whether there is any possibility of the accused tampering with evidence or influencing witnesses etc. Once these tests are satisfied, bail should be granted to an undertrial which is also important as viewed from another angle, namely, an accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. Thus, grant or non-grant of bail depends upon a variety of circumstances and the cumulative effect thereof enters into judicial verdict. The Court stresses that any single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail. After clarifying this position, the Court discussed the inferences of anticipatory bail in the following manner:

“31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some

ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the State" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in [The State v. Captain Jagjit Singh](#), AIR 1962 SC 253 : (1962) 3 SCR 622 : (1962) 1 Cri LJ 216, which, though, was a case under the old [Section 498](#) which corresponds to the present [Section 439](#) of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail."

8. It is pertinent to note that while interpreting the expression "may, if

it thinks fit” occurring in [Section 438\(1\)](#) of the Code, the Court pointed out that it gives discretion to the Court to exercise the power in a particular case or not, and once such a discretion is there merely because the accused is charged with a serious offence may not by itself be the reason to refuse the grant of anticipatory bail if the circumstances are otherwise justified. At the same time, it is also the obligation of the applicant to make out a case for grant of anticipatory bail. But that would not mean that he has to make out a “special case”. The Court also remarked that a wise exercise of judicial power inevitably takes care of the evil consequences which are likely to flow out of its intemperate use.

9. Another case to which can be referred to is the judgment of a Division Bench of this Court in the case of [Siddharam Satlingappa Mhetre v. State of Maharashtra and Others](#)(SLP(CRL.) 7615/2009 DATED 02-12-2021).This case lays down an exhaustive commentary of [Section 438](#) of the Code covering, in an erudite fashion, almost all the aspects and in the process relies upon the aforesaid Constitution Bench judgment in Gurbaksh Singh's case. In the very first para, the Court highlighted the conflicting interests which are to be balanced while taking a decision as to whether bail is to be granted or not, as is clear from the following observations:

“1.This appeal involves issues of great public importance pertaining to the importance of individual's personal liberty and the society's interest. Society has a vital interest in grant or refusal of bail because every criminal offence is the offence against the State. The order granting or refusing bail must reflect perfect balance between the conflicting interests, namely, sanctity of individual liberty and the interest of the society. The law of bails dovetails two conflicting interests, namely, on the one hand, the requirements of shielding society from the hazards of those committing crimes and potentiality of repeating the same crime while on bail and on the other hand, absolute adherence to the

fundamental principle of criminal jurisprudence regarding presumption of innocence of an accused until he is found guilty and the sanctity of individual liberty.....”

10. The principles which can be culled out can be stated as under:

(i) The complaint filed against the accused needs to be thoroughly examined, including the aspect whether the complainant has filed a false or frivolous complaint on earlier occasion. If the connivance between the complainant and the investigating officer is established then action be taken against the investigating officer in accordance with law.

(ii) The gravity of charge and the exact role of the accused must be properly comprehended. Before arrest, the arresting officer must record the valid reasons which have led to the arrest of the accused in the case diary. In exceptional cases, the reasons could be recorded immediately after the arrest, so that while dealing with the bail application, the remarks and observations of the arresting officer can also be properly evaluated by the court.

(iii) It is imperative for the courts to carefully and with meticulous precision evaluate the facts of the case. The discretion to grant bail must be exercised on the basis of the available material and the facts of the particular case. In cases where the court is of the considered view that the accused has joined the investigation and he is fully cooperating with the investigating agency and is not likely to abscond, in that event, custodial interrogation should be avoided. A great ignominy, humiliation and disgrace is attached to arrest. Arrest leads to many serious consequences not only for the accused but for the entire family and at times for the entire community. Most people do not make any distinction between arrest at a pre-conviction stage or post-conviction stage.

(iv) There is no justification for reading into [Section 438](#) CrPC the limitations mentioned in [Section 437](#) CrPC. The plentitude of [Section](#)

[438](#) must be given its full play. There is no requirement that the accused must make out a “special case” for the exercise of the power to grant anticipatory bail. This virtually, reduces the salutary power conferred by [Section 438](#) CrPC to a dead letter. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints and conditions on his freedom, by the acceptance of conditions which the court may deem fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

(v) The proper course of action on an application for anticipatory bail ought to be that after evaluating the averments and accusations available on the record if the court is inclined to grant anticipatory bail then an interim bail be granted and notice be issued to the Public Prosecutor. After hearing the Public Prosecutor the court may either reject the anticipatory bail application or confirm the initial order of granting bail. The court would certainly be entitled to impose conditions for the grant of anticipatory bail. The Public Prosecutor or the complainant would be at liberty to move the same court for cancellation or modifying the conditions of anticipatory bail at any time if liberty granted by the court is misused. The anticipatory bail granted by the court should ordinarily be continued till the trial of the case.

(vi) It is a settled legal position that the court which grants the bail also has the power to cancel it. The discretion of grant or cancellation of bail can be exercised either at the instance of the accused, the Public Prosecutor or the complainant, on finding new material or circumstances at any point of time.

(vii) In pursuance of the order of the Court of Session or the High Court, once the accused is released on anticipatory bail by the trial court, then it would be unreasonable to compel the accused to surrender before the trial court and again apply for regular bail.

(viii) Discretion vested in the court in all matters should be

exercised with care and circumspection depending upon the facts and circumstances justifying its exercise. Similarly, the discretion vested with the court under [Section 438](#) CrPC should also be exercised with caution and prudence. It is unnecessary to travel beyond it and subject the wide power and discretion conferred by the legislature to a rigorous code of self-imposed limitations.

(ix) No inflexible guidelines or straitjacket formula can be provided for grant or refusal of anticipatory bail because all circumstances and situations of future cannot be clearly visualised for the grant or refusal of anticipatory bail. In consonance with legislative intention, the grant or refusal of anticipatory bail should necessarily depend on the facts and circumstances of each case.

(x) The following factors and parameters that need to be taken into consideration while dealing with anticipatory bail:

(a) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

(b) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;

(c) The possibility of the applicant to flee from justice;

(d) The possibility of the accused's likelihood to repeat similar or other offences;

(e) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;

(f) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;

(g) The courts must evaluate the entire available material against the

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accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of [Sections 34](#) and [149](#) of the Penal Code, 1860 the court should consider with even greater care and caution, because over implication in the cases is a matter of common knowledge and concern;

(h) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(i) The Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(j) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.

10. In this case it is claimed by the accused side that they are the owner of the plot in question. But on the other hand, specific stand is taken by the IO that based on forged documents, including the forced photographs of previous owner, the present accused alongwith others was selling the plot in question which was already acquired by the Noida Authority. The present matter involve issue of forgery cheating and conspiracy angle for the same is also not ruled out and the same is to be investigated. For that purpose custodial interrogation of the accused may also be needed. Therefore, having regard to the nature of allegations and role assigned to the present accused, prima facie, it cannot be said the allegations against the accused are baseless. Further, such offence appears to be public at large of which complainant is a particular victim. Under

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these circumstances, 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 to collect the order through electronic mode. Copy of this order be sent to IO / SHO.

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.

**NAVEEN
KUMAR
KASHYAP**

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**(Naveen Kumar Kashyap)
Additional Sessions Judge-04**

Central/THC/Delhi 27.11.2020

Anticipatory Bail

**Bail Application No.:1679/2020
State vs Sewa Ram
FIR No. 239/2020
P. S. Sarai Rohilla
U/s: Section 3 / 7 Essential Commodities Act**

27.11.2020

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

1. This is an application for anticipatory bail u/s 438 Cr.PC filed by the applicant Sewa Ram through counsel.

2. In the present case, it is argued by the learned counsel that at the instance of local political leaders the accused is falsely implicated in this case; that there is no criminal record / case against the present accused ever. That he is ready to join investigation as and when required; that he apprehends his arrest in the present case; that he undertakes to appear before the IO / Court as and when so directed. As such, IO / SHO be directed to release the applicant on bail in the event of his arrest.

3. On the other hand, in reply and additional reply submitted by the IO SI S.K.Jha as also argued by the learned Addl.PP, it is argued that accused is running a Ration Stand / PDS in the name of Laxmi Chand Ram Prasad and he was illegally supplying the ration mend for public distribution from his shop / store to Azad Pur Mandi. The matter was

**Bail Application No.:1679/2020
State vs Sewa Ram
FIR No. 239/2020
P. S. Sarai Rohilla
U/s: Section 3 / 7 Essential Commodities Act**

reported by the local people to the concerned local MLA who took up the matter with appropriate authority; that such vehicle bearing No. DL 1LV 9834 was seized in the presence of local MLA and food and supply Minister / Delhi Govt and other persons and the matter was reported to the concerned Food and Supply department and thereafter the present FIR was registered and in such vehicle 17 bags of 50 kg *black daal* was seized. That such accused is not joining inquiry initiated by Food & Supply department; that his license is already cancelled; that NBWs already issued against him by the Ilaka MM. that present accused instead of joining investigation conveyed message that documents pertaining to record has been lost. It is further argued that such accused has not cooperated the investigation and not producing the relevant record. It is further claimed that he is trying to destroy the evidence / documents. It is further argued that the present offence is under the essential commodity Act and the food meant for needy is sold in black market by the present accused. As such, present application is strongly opposed.

4. I have heard both the sides and gone through the record.
5. At this stage it may be noted that in the case of **Bhadresh Bipinbhai Sheth Vs. State Of Gujarat & Another**(Criminal Appeal Nos. 1134-1135 Of 2015, Arising Out Of Special Leave Petition (Crl.) Nos. 6028-6029 Of 2014), Hon'ble SC discussed and reviews the law relating to section 438 Cr.P.C.
6. A judgment which needs to be pointed out is a Constitution Bench

Judgment of this Court in the case Gurbaksh Singh Sibbia and Other vs. State of Punjab(1980 AIR 1632 ; 1980 SCR(3) 383), The Constitution Bench in this case emphasized that provision of anticipatory bail enshrined in [Section 438](#) of the Code is conceptualised under [Article 21](#) of the Constitution which relates to personal liberty. Therefore, such a provision calls for liberal interpretation of [Section 438](#) of the Code in light of [Article 21](#) of the Constitution. The Code explains that an anticipatory bail is a pre- arrest legal process which directs that if the person in whose favour it is issued is thereafter arrested on the accusation in respect of which the direction is issued, he shall be released on bail. The distinction between an ordinary order of bail and an order of anticipatory bail is that whereas the former is granted after arrest and therefore means release from the custody of the police, the latter is granted in anticipation of arrest and is therefore, effective at the very moment of arrest. A direction under [Section 438](#) is therefore intended to confer conditional immunity from the 'touch' or confinement contemplated by [Section 46](#) of the Code. The essence of this provision is brought out in the following manner:

“26. We find a great deal of substance in Mr Tarkunde’s submission that since denial of bail amounts to deprivation of personal liberty, the court should lean against the imposition of unnecessary restrictions on the scope of [Section 438](#), especially when no such restrictions have been imposed by the legislature in the terms of that section. [Section 438](#) is a procedural provision which is concerned with the personal liberty of the individual, who is entitled to the benefit of the presumption of innocence since he is not, on the date of his application for anticipatory bail, convicted of the offence in respect of which he seeks bail. An over-generous infusion of constraints and conditions which are not to be found in [Section 438](#) can make its provisions constitutionally

vulnerable since the right to personal freedom cannot be made to depend on compliance with unreasonable restrictions. The beneficent provision contained in [Section 438](#) must be saved, not jettisoned. No doubt can linger after the decision in [Maneka Gandhi v. Union of India](#), (1978) 1 SCC 248, that in order to meet the challenge of [Article 21](#) of the Constitution, the procedure established by law for depriving a person of his liberty must be fair, just and reasonable. [Section 438](#), in the form in which it is conceived by the legislature, is open to no exception on the ground that it prescribes a procedure which is unjust or unfair. We ought, at all costs, to avoid throwing it open to a Constitutional challenge by reading words in it which are not to be found therein.”

7. Though the Court observed that the principles which govern the grant of ordinary bail may not furnish an exact parallel to the right to anticipatory bail, still such principles have to be kept in mind, namely, the object of bail which is to secure the attendance of the accused at the trial, and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise, bail is not to be withheld as a punishment. The Court has also to consider whether there is any possibility of the accused tampering with evidence or influencing witnesses etc. Once these tests are satisfied, bail should be granted to an undertrial which is also important as viewed from another angle, namely, an accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. Thus, grant or non-grant of bail depends upon a variety of circumstances and the cumulative effect thereof enters into judicial verdict. The Court stresses that any single circumstance cannot be treated as of universal

validity or as necessarily justifying the grant or refusal of bail. After clarifying this position, the Court discussed the inferences of anticipatory bail in the following manner:

“31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant’s presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and “the larger interests of the public or the State” are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in [The State v. Captain Jagjit Singh](#), AIR 1962 SC 253 : (1962) 3 SCR 622 : (1962) 1

Cri LJ 216, which, though, was a case under the old [Section 498](#) which corresponds to the present [Section 439](#) of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.”

8. It is pertinent to note that while interpreting the expression “may, if it thinks fit” occurring in [Section 438\(1\)](#) of the Code, the Court pointed out that it gives discretion to the Court to exercise the power in a particular case or not, and once such a discretion is there merely because the accused is charged with a serious offence may not by itself be the reason to refuse the grant of anticipatory bail if the circumstances are otherwise justified. At the same time, it is also the obligation of the applicant to make out a case for grant of anticipatory bail. But that would not mean that he has to make out a “special case”. The Court also remarked that a wise exercise of judicial power inevitably takes care of the evil consequences which are likely to flow out of its intemperate use.

9. Another case to which can be referred to is the judgment of a Division Bench of this Court in the case of [Siddharam Satlingappa Mhetre v. State of Maharashtra and Others](#)(SLP(CRL.) 7615/2009 DATED 02-12-2021).This case lays down an exhaustive commentary of [Section 438](#) of the Code covering, in an erudite fashion, almost all the aspects and in the process relies upon the aforesaid Constitution Bench judgment in Gurbaksh Singh's case. In the very first para, the Court highlighted the conflicting interests which are to be balanced while taking a decision as to

whether bail is to be granted or not, as is clear from the following observations:

“1.This appeal involves issues of great public importance pertaining to the importance of individual's personal liberty and the society's interest. Society has a vital interest in grant or refusal of bail because every criminal offence is the offence against the State. The order granting or refusing bail must reflect perfect balance between the conflicting interests, namely, sanctity of individual liberty and the interest of the society. The law of bails dovetails two conflicting interests, namely, on the one hand, the requirements of shielding society from the hazards of those committing crimes and potentiality of repeating the same crime while on bail and on the other hand, absolute adherence to the fundamental principle of criminal jurisprudence regarding presumption of innocence of an accused until he is found guilty and the sanctity of individual liberty.....”

10. The principles which can be culled out can be stated as under:

(i) The complaint filed against the accused needs to be thoroughly examined, including the aspect whether the complainant has filed a false or frivolous complaint on earlier occasion. If the connivance between the complainant and the investigating officer is established then action be taken against the investigating officer in accordance with law.

(ii) The gravity of charge and the exact role of the accused must be properly comprehended. Before arrest, the arresting officer must record the valid reasons which have led to the arrest of the accused in the case diary. In exceptional cases, the

reasons could be recorded immediately after the arrest, so that while dealing with the bail application, the remarks and observations of the arresting officer can also be properly evaluated by the court.

(iii) It is imperative for the courts to carefully and with meticulous precision evaluate the facts of the case. The discretion to grant bail must be exercised on the basis of the available material and the facts of the particular case. In cases where the court is of the considered view that the accused has joined the investigation and he is fully cooperating with the investigating agency and is not likely to abscond, in that event, custodial interrogation should be avoided. A great ignominy, humiliation and disgrace is attached to arrest. Arrest leads to many serious consequences not only for the accused but for the entire family and at times for the entire community. Most people do not make any distinction between arrest at a pre-conviction stage or post-conviction stage.

(iv) There is no justification for reading into [Section 438](#) CrPC the limitations mentioned in [Section 437](#) CrPC. The plentitude of [Section 438](#) must be given its full play. There is no requirement that the accused must make out a “special case” for the exercise of the power to grant anticipatory bail. This virtually, reduces the salutary power conferred by [Section 438](#) CrPC to a dead letter. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints and conditions on his freedom, by the acceptance of conditions which the court may deem fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

(v) The proper course of action on an application for anticipatory bail ought to be that after evaluating the averments and accusations available on the record if the court is inclined to grant anticipatory bail then an interim bail be granted and notice be issued to the Public Prosecutor. After hearing the Public Prosecutor the court may either reject the anticipatory bail application or confirm the initial order of granting bail. The court would certainly be entitled to impose conditions for the grant of anticipatory bail. The Public Prosecutor or the complainant would be at liberty to move the same court for cancellation or modifying the conditions of anticipatory bail at any time if liberty granted by the court is misused. The anticipatory bail granted by the court should ordinarily be continued till the trial of the case.

(vi) It is a settled legal position that the court which grants the bail also has the power to cancel it. The discretion of grant or cancellation of bail can be exercised either at the instance of the accused, the Public Prosecutor or the complainant, on finding new material or circumstances at any point of time.

(vii) In pursuance of the order of the Court of Session or the High Court, once the accused is released on anticipatory bail by the trial court, then it would be unreasonable to compel the accused to surrender before the trial court and again apply for regular bail.

(viii) Discretion vested in the court in all matters should be exercised with care and circumspection depending upon the facts and circumstances justifying its exercise. Similarly, the discretion vested with the court under [Section 438 CrPC](#)

should also be exercised with caution and prudence. It is unnecessary to travel beyond it and subject the wide power and discretion conferred by the legislature to a rigorous code of self-imposed limitations.

(ix) No inflexible guidelines or straitjacket formula can be provided for grant or refusal of anticipatory bail because all circumstances and situations of future cannot be clearly visualised for the grant or refusal of anticipatory bail. In consonance with legislative intention, the grant or refusal of anticipatory bail should necessarily depend on the facts and circumstances of each case.

(x) The following factors and parameters that need to be taken into consideration while dealing with anticipatory bail:

(a) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

(b) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;

(c) The possibility of the applicant to flee from justice;

(d) The possibility of the accused's likelihood to repeat similar or other offences;

(e) Where the accusations have been made only with the object of injuring or humiliating the applicant by

arresting him or her;

(f) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;

(g) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of [Sections 34](#) and [149](#) of the Penal Code, 1860 the court should consider with even greater care and caution, because overimplication in the cases is a matter of common knowledge and concern;

(h) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(i) The Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(j) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.

11. Now in this background of law we come back to present case. In the present case from the material on record including the reply filed by the IO, prima facie, it cannot be said that allegations against the accused are baseless. It is not in dispute that he was running a PDS / Ration shop. Further such siphoning away of the ration meant for the needy / black daal was caught in the presence of public witness and infact public representative / MLA and the ministers as per the reply filed by the IO. Further, the offence involved is under essential commodities Act. Further, the accused did not cooperate with the investigation, even when protection was granted to him. Further, it appears that accused is charged with destruction with evidence also. As such, custodial interrogation of the accused is not ruled out. Under these circumstances, there does not appear apprehension of arrest of the present accused person. Therefore, no occasion exist to grant the relief as prayed for. Present application is disposed off with these observation. **Both the sides are at liberty to obtain copy of order through electronic mode. Further, a copy of this order be sent to IO / SHO concerned. Further, a copy of this order be uploaded on website.**

The observations made in the present 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 Distt)/Delhi/27/11/2020

Bail Application: 1984/2020

**State v. Vijay Tiwari @ Ganzek
FIR no.:213/2020
PS:Prasad Nagar**

27.11.2020

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

It is argued by learned counsel for accused that this is the second bail application . First bail application was dismissed by this court vide order dated 22.10.2020. It is further stated that there is material change in the circumstances and now even the chargesheet is filed. It is further argued that he is in JC since 06.09.2020 and he is falsely implicated in the present case. That he is no more required for the purpose of investigation. As such, no purpose would be served by keeping him in JC. That he has roots in the society. As such, it is prayed that he be granted regular bail.

On the other hand, it is argued by Ld. Addl. PP for the state that there is no material change in the circumstances since dismissal of the previous bail application. That offence is serious in nature. That complainant was attacked by accused side by some pointed object on his head and thereafter he was looted of his money. That accused is known to the victim. As such, there is every possibility of threatening the witness or pressurizing him. Further, there are other criminal cases pending against the present accused person including similar nature.

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

I find force in the arguments of Ld. Addl. PP for the state. There is no material change in the circumstances except that chargesheet is filed. But victim/complainant is yet to be examined. As such, this court is not inclined to grant regular bail to present accused at present stage.

With these observations, present bail application is dismissed.

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

concerned through electronic mode.

Before parting it may be noted that observations made in the present bail application are only for the purpose of deciding the present bail application and are not a comment on the merit of the case which is a matter of trial.

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(NAVEEN KUMAR KASHYAP)
Additional Sessions Judge-04/Central
27.11.2020

Bail Matters No.: 914/2020
State Vs Shakir
FIR No.:0084/2019
PS: I.P. Estate

27/11/2020

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

Put up for the day of physical hearing of this Court i.e. **03/12/2020**. In the meanwhile, interim
continue to continue in terms of previous order.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

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Bail Matters No.:517/2020
State Vs V.K.Jain
FIR No.:0084/2019
PS: I.P. Estate

27/11/2020

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

Put up for the day of physical hearing of this Court i.e. **03/12/2020**. In the meanwhile, interim
continue to continue in terms of previous order.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

**Bail Matters No.:539/2020
State Vs Fazar Mohd.
FIR No.:0084/2019
PS: I.P. Estate**

27/11/2020

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

Put up for the day of physical hearing of this Court i.e. **03/12/2020**. In the meanwhile, interim
continue to continue in terms of previous order.

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ASJ-04/Central/27.11.2020**

Bail Matters No.:540/2020
State Vs Sukha @ Imran Khan
FIR No.:0084/2019
PS: I.P. Estate

27/11/2020

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

Put up for the day of physical hearing of this Court i.e. **03/12/2020**. In the meanwhile, interim
continue to continue in terms of previous order.

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ASJ-04/Central/27.11.2020

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Bail Matters No.:541/2020
State Vs Ajit @ Aziz
FIR No.:0084/2019
PS: I.P. Estate

27/11/2020

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

Put up for the day of physical hearing of this Court i.e. **03/12/2020**. In the meanwhile, interim
continue to continue in terms of previous order.

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ASJ-04/Central/27.11.2020

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Bail Matters No.:1636/2020
State Vs Amit @ Akash
FIR No.:193/2019
PS: Prashad Nagar

27/11/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.
None for applicant / accused.
Mr. Kunal Madan, learned counsel for the victim / complainant through VC.

In view of the order No.3037/2020 dated 20/10/2020 passed by the Hon'ble High Court of Delhi and thereafter order dated 25/11/2020 passed by the Hon'ble Supreme Court of India in SL(P)(C) No. 13021/2020, put up for further consideration and appropriate orders for 07/12/2020.

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Bail Matters No.: 1877/2020
State Vs Nago Bind
FIR No.:Not Known
PS:Lahori Gate

27/11/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.
Mr. N.K.Dev, learned counsel for the applicant through VC.

It is claimed by the accused side that he has joined investigation as directed by the Court. IO is directed to file further status report in this case and to further appear with case file on the next date of hearing.

Put up for further arguments, if any, orders on the present application for 16/12/2020. In the meanwhile, interim protection to continue till the next date of hearing.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

Bail Matters No.: 1981/2020
State Vs Parvinder Singh
FIR No.:286/2020
PS: Prashad Nagar

27/11/2020

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

Further arguments in detail heard.

Put up for further orders / clarification, if any, for tomorrow i.e. **28/11/2020**.

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ASJ-04/Central/27.11.2020

M. CrI. No. 184/2020
State Vs Karan
FIR No.:668/2020
PS:Sarai Rohilla

27/11/2020

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

Heard on this application for early hearing for 02/12/2020.

Having regard to the submissions made in such application the next date of hearing is
preponed for **02/12/2020**.

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ASJ-04/Central/27.11.2020

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Bail Matters No.: 1985/2020
State Vs Saurabh & Ors.
FIR No.:459/2020
PS: Sarai Rohilla

27/11/2020

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

Mr. Vijay Kumar, learned counsel for all the five applicants through VC.

Further complainant Pragati is also present through VC.

IO of the case PSI Awanti is present through VC.

This is a joint anticipatory bail application filed by such five applicants namely Saurabh, Sapna ,Rani, Deepali, Vicky and Bela Rani dated 24/11/2020.

Part arguments in detail heard.

Put up for further arguments and orders for tomorrow. Let all the accused to appear through VC on the next date. Further complainant is at liberty to appear with her husband also tomorrow through VC. IO to also appear through VC. *In the meanwhile, IO is directed not to take any coercive action any of such five applicants provided they will fully cooperate with the investigation.*

Put up for further arguments and orders for **28/11/2020**.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

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**Bail Application No.
State Vs Rajesh Gurjar
FIR No.: 264/2020
PS:Prasad Nagar**

27/11/2020

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

Complainant in person through VC with counsel Mr. Kumar Piyush Pushkar. Mr.

Anil Kumar Sharma, learned counsel for applicant through VC.

IO SI Pooja Chaudhary is also present through VC.

Further part arguments heard in detail.

Learned counsel for complainant wants to place on record a number of documents. The same be placed on record with copy to the accused side through electronic mode.

Further, put up for physical hearing day of this Court i.e. **03/12/2020** having regard to the nature of offence involved in this case. Parties are at liberty to appear through VC or in person in Court. IO to appear in person with case file on the next date. Interim protection, if any, to continue till next date of hearing.

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ASJ-04/Central/27.11.2020

Bail Matters No.: 700, 703, 704 & 704 / 2020
State Vs Vijeta Sarswat, Smt. Shakti Sharma,
Sunil Saraswat & Surya Kant Sharma
FIR No.:123/2020
PS: Hauz Qazi

27/11/2020

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

Learned counsel Mr. Vivek Aggarwal, through VC.

Complainant in person through VC.

Further arguments in detail heard.

In the further reply filed by the IO again there is no comment / reply regarding section 354 IPC. As such, IO ASI Narender to appear alongwith SHO PS Hauz Qazi on the next physical hearing day of this Court itself.

Put up for further arguments, if any, / orders on these four bail applications for **03/12/2020**.

Interim protection, if any, to continue till next date of hearing only.

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Bail Matters No.: 1667/2020
State Vs Ravi Kumar Sony @ Ravi Kumar Soni
FIR No.:85/2020
PS: Karol Bagh

27/11/2020

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

Complainant is also present through VC.

Previous order not complied by the accused / applicant Ravi Kumar Soni. 2-3 days time is sought by the counsel for the applicant accordingly to comply with the same. The same is opposed by the opposite side.

The conduct of the accused is not satisfactory. However, in the larger interest of justice, put up for compliance / appropriate orders on the present bail application for **01/12/2020**. Interim order, if any, to continue till next date of hearing.

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ASJ-04/Central/27.11.2020

Bail Matters No.:
State Vs Rohit
FIR No.:492/2020
PS: Karol Bagh

27/11/2020

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

Further arguments heard.

This order is in continuous of order dated 19/11/2020 and as such the order dated 19/11/2020 be considered as Part and Parcel of this order in which the arguments of both sides are already noted.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

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State Vs Sunil & Ors.
(Application for extension of IB of Karan @ Rajkaran)
FIR No. 303/2014
P. S. Subzi Mandi

27.11.2020

This Court is also discharging bail roster duty.

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

Mr. Naveen Gaur, learned counsel for appellant.

**In view of order dated 25/11/2020 passed by the Hon'ble Supreme Court of India in
SL(P)(C) No. 13021/2020, put up for order appropriate orders / proceedings for
08/12/2020.**

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

State Vs Sunil @ Kalu & others
(Application for extension of IB of Surrender)
FIR No.303/2014
P. S. Subzi Mandi

27.11.2020

This court is also discharging bail roster duty.

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

None for the applicant.

**In view of order dated 25/11/2020 passed by the Hon'ble Supreme Court of India in
SL(P)(C) No. 13021/2020, put up for order appropriate orders / proceedings for
08/12/2020.**

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

State Vs Sunil @ Kalu & others
(Application for extension of IB of Varun Bhardwaj)
FIR No.303/2014
P. S. Subzi Mandi

27.11.2020

This court is also discharging bail roster duty.

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

Mr. Mukesh Kumar, learned counsel for applicant through VC.

In view of order dated 25/11/2020 passed by the Hon'ble Supreme Court of India in SL(P)(C) No. 13021/2020, put up for order appropriate orders / proceedings for 08/12/2020.

Also issue notice to IO SHO concerned to appear in person through VC on the next date of hearing.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

State Vs Babloo & Ors
(Application for extension of bail of Dinesh @ Dhanna)
FIR No 251/2019
P. S. Sarai Rohilla

27.11.2020

This court is also discharging bail roster duty.

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

None for the applicant.

In view of order dated 25/11/2020 passed by the Hon'ble Supreme Court of India in SL(P)(C) No. 13021/2020, put up for order appropriate orders / proceedings for 08/12/2020.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

State Vs Pooja Etc.
(Application for extension of IB of Mohit Sharma)
FIR No:292/2014
P. S. Rajender Nagar

27.11.2020

This court is also discharging bail roster duty.

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

None for the applicant.

In view of order dated 25/11/2020 passed by the Hon'ble Supreme Court of India in SL(P)(C) No. 13021/2020, put up for order appropriate orders / proceedings for 08/12/2020.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

State Vs Pooja Etc.
(Application for extension of IB of Pooja)
FIR No:292/2014
P. S. Rajender Nagar

27.11.2020

This court is also discharging bail roster duty.

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

Mr. S.N. Shukla, learned counsel for applicant through VC.

In view of order dated 25/11/2020 passed by the Hon'ble Supreme Court of India in SL(P)(C) No. 13021/2020, put up for order appropriate orders / proceedings for 08/12/2020.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

State Vs Zuhaid @ Makku @ Danish
(Application for bail of Zuhaid)
FIR No 170/2019
P. S. Lahori Gate

27.11.2020

This court is also discharging bail roster duty.

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

Mr. Sandeep Yadav, learned counsel for the applicant through VC.

Put up for further appropriate orders for 09/12/2020.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

**State Vs Shankar Kumar Jha @ Moment @ Vikash
(Application for extension of IB of Shankar kumar Jha)
FIR No 14/2019
P. S. Subzi Mandi Railway Station**

27.11.2020

This court is also discharging bail roster duty.

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

Mr. S.N. Shukla, learned counsel for the applicant.

**In view of order dated 25/11/2020 passed by the Hon'ble Supreme Court of India in
SL(P)(C) No. 13021/2020, put up for order appropriate orders / proceedings for
08/12/2020.**

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**(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020**

**State Vs Ajay Pal & others
(Application for Sudhir Pal)
FIR No 678/2015
P. S. Subzi Mandi**

27.11.2020

This court is also discharging bail roster duty.

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

Mr. Hansraj Singh, learned counsel for applicant through VC.

This is an application for early hearing of next date of hearing.

Heard. Allowed.

Put up for further appropriate orders / proceedings on the mail bail application for the physical hearing day of this Court i.e. 03/12/2020.

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**(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020**

State Vs Sanju @ Chawmin
(Application for bail of Sanju @ Chawmin)
FIR No 135/2017
P. S. ODRS

27.11.2020

This court is also discharging bail roster duty.

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

Mr. J.S.Mishra, learned counsel for applicant / accused Sanju through VC.

Reply has already been filed by the IO.

Put up for arguments and appropriate orders for 14/12/2020.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

**State Vs Imran @ Akhtar Khan & Ors.
(Misc. Application for release of vehicle)
FIR No 227/2020
P. S. Wazirabad**

27.11.2020

This court is also discharging bail roster duty.

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

None for the applicant.

This is an application dated 13/10/2020 for release of vehicle on Supardari.

Put up for physical hearing day of this Court i.e. for 03/12/2020 for orders / clarification

on this application.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

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**State Vs Pooja & others
(Application for bail of Munni @ Moni)
FIR No 292/2014
P. S. Rajinder Nagar**

27.11.2020

This court is also discharging bail roster duty.

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

None for the applicant.

Put up for arguments and appropriate orders on the physical day of hearing of this

Court i.e. 03/12/2020.

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**(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020**

State Vs Ankit & others
(Application for Interim bail of Gautam)
FIR No. 70/2019
P. S. Sarai Rohilla Railway Station

27.11.2020

This court is also discharging bail roster duty.

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

Mr. Sumit Kumar Rana, learned counsel for the applicant through VC.

After some arguments, it is submitted by the counsel Mr. Sumit Kumar Rana that he wants to withdraw the present application for interim bail dated 26/11/2020 with liberty to file afresh as per law.

Heard. Allowed.

In view of the submission, the present application stands dismissed as withdrawn.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

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Crl. Rev.: 56/2020
Narayan Sharma v. Vinod Kumar and ors.

27.11.2020

Fresh revision petition received by way of assignment. It be checked and registered.

Present: Sh. Gajender Chauhan, Ld. Counsel for revisionist through VC.

Heard.

Issue notice of the same to the respondents through electronic mode or otherwise as per rules.

Put up on 29.01.2021.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

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Crl. Appeal.: 281/2019
Mohd. Nawab & Ors. v. The State

27.11.2020

Present: Counsel for Appellant.
Sh. Pawan Kumar , Ld. Addl. PP for state/respondent.
Sh. Rohit Bhardwaj, Ld. Counsel for complainant.

Vide separate judgment pronounced in the open court through VC/Webex, present appeal is allowed and the judgment and sentence passed by Ld. MM against all the three appellants is set aside.

Bail Bond cancelled.Sureties are discharged.

File be consigned to record room after due compliance.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

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CA No.:99/2020
Jaspal Singh Vs The State

27.11.2020

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.
Undersigned is also discharging work of Bail Roster duty.

Present: None for the appellant.
Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.

Put up for appearance of appellant on the next date of hearing.

Put up for arguments in terms of previous order / purpose fixed / appropriate order for

07/04/2021.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

CA No.:105/2020
Sanjay Kumar Vs The State

27.11.2020

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.
Undersigned is also discharging work of Bail Roster duty.

Present: None for the appellant.
Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.

Put up for appearance of appellant on the next date of hearing.

Put up for arguments in terms of previous order / purpose fixed / appropriate order for

07/04/2021.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

SC:27541/2016
State v. Aminuddin @ Choti Etc.
FIR No.:08/2012
PS:Hauz Qazi

27.11.2020

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.

Undersigned is also discharging work of Bail Roster duty.

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

None for the accused.

Further, MHC(M) PS Hauz Qazi is present in Court.

Issue production warrant for the accused who are in JC, if any, for the next date of hearing.

Put up for PE in terms of previous order for 07/04/2020. Issue notice to two of the material witnesses for the next date of hearing.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

SC:28742/2016
State v. Gollu @ Mohd. Hussain
FIR No.: 62/2013
PS: Prashad Nagar

27.11.2020

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.

Undersigned is also discharging work of Bail Roster duty.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
None for the accused.

Issue production warrant for the accused who are in JC, if any, for the next date of hearing.

Put up for PE in terms of previous order for 07/04/2020. Issue notice to two of the material witnesses for the next date of hearing.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

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SC: 231/2019
State v. Rajender
FIR No.:576/2016
PS: Timar Pur

27.11.2020

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.

Undersigned is also discharging work of Bail Roster duty.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.
None for the accused.

Issue production warrant for the accused who are in JC, if any, for the next date of hearing.

Put up for PE in terms of previous order for 07/04/2020. Issue notice to two of the material witnesses for the next date of hearing.

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ASJ-04/Central/27.11.2020

CR No. 322/2019
G.K. Sarkar Vs ShameemAhmed

27.11.2020

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.
Undersigned is also discharging work of Bail Roster duty.

Present: Mr. Satish Aggarwal, learned counsel for revisionist through VC.
None for the respondent.

In view of the circular No. 1167/M&C/DHC/2020 dated 17/11/2020 & Endst. No. 15386-15418, dated 17/11/2020 of the Registrar General, Hon'ble High Court of Delhi, no adverse order is passed in the present case.

Issue Court notice to respondent Shameem Ahmed for the next date of hearing. Further, Trial Court record be summoned for the next date of hearing.

Put up for further arguments and appropriate orders for 18/12/2020. Ahlmad is directed to do needful accordingly. Trial Court record be summoned only one day before the next date of hearing.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

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CR No. 323/2019
Deepak Kumar Mangotra Vs ShameemAhmed

27.11.2020

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.
Undersigned is also discharging work of Bail Roster duty.

Present: Mr. Satish Aggarwal, learned counsel for revisionist through VC.
None for the respondent.

In view of the circular No. 1167/M&C/DHC/2020 dated 17/11/2020 & Endst. No. 15386-15418, dated 17/11/2020 of the Registrar General, Hon'ble High Court of Delhi, no adverse order is passed in the present case.

Issue Court notice to respondent Shameem Ahmed for the next date of hearing. Further, Trial Court record be summoned for the next date of hearing.

Put up for further arguments and appropriate orders for 18/12/2020. Ahlmad is directed to do needful accordingly. Trial Court record be summoned only one day before the next date of hearing.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

SC: 27605/2016
State v. Sanjay Sharma & others
FIR No.:130/2005
PS: Kamla Market

27.11.2020

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.

Undersigned is also discharging work of Bail Roster duty.

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

Mr. Rashid Hashmi, learned counsel for the accused Aas Mohd.
Through VC.

Accused Aas Mohd. is stated to be on regular bail.

None for other accused.

Part arguments / submissions heard.

Put up for further arguments for 14/12/2020. Further, issue Court notice to accused No.1

& 2 as well as to their counsel for the next date of hearing.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

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CA No. 54821/2016

M/s Tricolite Engineering Pvt. Ltd. And Anr s M/s Pipeline Products Ltd.

27.11.2020

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.
Undersigned is also discharging work of Bail Roster duty.***

Present: None for the appellant.
Mr. Mahesh Katiyan, learned counsel for respondent through VC.

Put up for further appropriate orders / proceedings for **03/12/2020**.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

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CA No. 281/2019
Mohd. Nawab & Ors vs The State & Ors.

27.11.2020

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.

Undersigned is also discharging work of Bail Roster duty.

Present: Mr. Khushdeep Gaur, learned counsel for the appellant through VC.
Mr. Pawan Kumar, learned Addl.PP for the State through VC.
Mr. Sudarshan, learned counsel for the complainant through VC.

Put up for pronouncement of judgment through VC at 2:15 PM today itself.

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(Naveen Kumar Kashyap)
ASJ-04/Central/27.11.2020

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Date: 2020.11.27
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Bail Matters No.:1897/2020
State Vs Rohit
FIR No.:492/2020
PS: Karol Bagh
U/s:356,379,411 r/w 34 IPC

27/11/2020

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

Further arguments heard.

This order is in continuous of order dated 19/11/2020 and as such the order dated 19/11/2020 be considered as Part and Parcel of this order in which the arguments of both sides are already noted.

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 08/11/2020. Further, as far as present accused is concerned, nothing remains to be recovered at his instance. In fact, the period for seeking police remand is already over. As such, no purpose would be served by keeping such accused in JC. Trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case of present nature. In present case, no previous conviction or even involvement in criminal cases is placed on record by the IO.

In above facts and circumstances, such 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 Delhi without prior permission of the Trial Court concerned.*
- 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 and further share his location through mobile phone once in every week till filing of chargesheet and thereafter as may be directed by the learned Trial Court.

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:

- a) The date on which conditions imposed by this court are satisfied;*
- b) The date of release of prisoner from jail;*
- c) 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.

The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain through electronic mode. Copy of this order be sent to concerned Jail Superintendent. Copy of this order be sent to IO / SHO concerned. Copy of order be uploaded on website.

The observations made in the present 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.

NAVEEN KUMAR
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(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi)
27.11.2020

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