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

**BAIL APPLICATION NO: 2101/2020**

**State v.Vivek Bansal @ Vicky**  
**FIR No. : 479/2020**  
**PS: Sarai Rohilla**  
**U/S: 308, 323,341,506, 34IPC**

**17.12.2020.**

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

Vide this order, the regular bail application dated 03.12.2020 filed by accused Vivek Bansal @ Vicky through counsel is disposed off.

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

*State v.Vivek Bansal @ Vicky*  
*FIR No. : 479/2020*  
*PS: Sarai Rohilla*  
*U/S: 308, 323,341,506, 34IPC*

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

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

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

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

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

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

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

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

question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

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

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

It is argued that accused is in JC since 29.11.2020. That there is a delay of two days in registration of FIR. That investigation is already over. That accused is no more required for purpose of investigation. That accused is falsely implicated in present case as there is previous animosity between the complainant and accused side. That no weapon of offence is recovered in present case. That victim was discharged on the same day. No purpose would be served by keeping the accused in JC. It is further argued that co-accused Sonu is granted regular bail by this Court yesterday only. As such, it is prayed that she be granted regular bail.

On the other hand, it is argued on behalf of the State that present accused alongwith two other co-accused started beating the complainant with iron rod and danda after blocking the way of such

complainant and his friend. That only when public gathered, accused left the complainant after threatening the complainant from the spot. That there is medical evidence in support of the offence in question. It is further stated that investigation is at initial stage and final opinion on the type of injury is yet to be obtained. The role of present accused is graver than the co-accused Sonu as he hit the victim on the head that too with an iron rod. As such, present bail application is strongly opposed.

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

The co-accused Sonu is already granted bail. At present the offences alleged against the accused is upto 7 years only. Further, period to seek PC remand is already over. No purpose would be served by keeping accused in JC. That investigation and thereafter trial is likely to take time. Further, there is a presumption of innocence in favour of such accused. Further, appropriate terms can be imposed upon the accused in order to safeguard the interest of witness. Further, needless to say that if later on, there is change in the nature of offence after obtaining further opinion regarding type of injury, then same would be dealt as per law if graver offence are also added. But just because final opinion is pending, in the meanwhile, right of accused to bail cannot be curtailed on such account only. Under above facts and circumstances, present accused is granted bail subject to furnishing of personal bond in the sum of **Rs. 20,000/- with one sound surety of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

- (i) That he will appear before IO / Trial Court as and when called as per law.***
- (ii) He will not indulge in any kind of activities which are alleged against him in the present case.***
- (iii) That he will not leave India without permission of the Court.***

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

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

*(vi) He shall also provide his mobile number to the IO/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 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.**

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

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**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central/Delhi)**  
**17.12.2020**

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

**BAIL APPLICAITON No: 2160/2020**

**State v. Sunil @ Chhajju**  
**FIR No. : 44/2020**  
**P. S: NDRS**  
**U/s: 379, 411 IPC**

**17.12.2020.**

**This court is also discharging bail roster duty. Further, one of the steno is on leave today.**

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

Vide this order, regular bail application u/s 439 Cr.PC dated 14.12.2020 filed through counsel is disposed off.

I have heard both the sides.

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

*State v. Sunil @ Chhajju*  
*FIR No. : 44/2020*  
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person should not ordinarily be interfered with unless there exist cogent grounds therefor. The fundamental principle of our system of justice is that a person should not be deprived of his liberty except for a distinct breach of law. If there is no substantial risk of the accused fleeing the course of justice, there is no reason why he should be imprisoned during the period of his trial. The basic rule is to release him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

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

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

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

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

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

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

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

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

It is stated in such application that he has been falsely implicated in the present case; that he is in JC since 11.12.2020; that nothing has been recovered from the possession of the applicant and the recovery, if any, is totally planted upon him; that investigation is already over and his PC remand was not sought at present. As such, no purpose would be served by keeping him in JC. As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by the IO HC Satyajeet, as also argued by learned Addl.PP for the State that complainants' case is that accused was arrested on suspicion immediately after committing offence and on checking his bag the stolen articles in question were recovered; that his Parchah 12 is not yet verified. That his bail application is already rejected by learned MM; that his presence may not be secured for trial. As such, present bail application is strongly opposed.

In the present case, it is a matter of record that accused is in JC and his PC remand is not sought. Case property is already stated to be recovered. Further, he is not arrested on the spot but later on. As such, no purpose would be served by keeping such accused in JC. The offence involved is punishable upto 3 years. Further, it may be noted that there is fundamental presumption of innocence in any criminal case in India i.e. an accused is presumed innocent unless proved guilty. In present case, no previous conviction record 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. 10,000/- with two sound sureties of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

- i) Applicant shall not flee from the justice;*
- ii) Applicant shall not tamper with the evidence;*
- iii) Applicant shall not threaten or contact in any manner to the prosecution witnesses ,*
- iv) Applicant shall not leave country without permission;*
- v) Applicant shall convey any change of address immediately to the IO and the court;*
- vi) Applicant shall also provide his mobile number to the IO;*
- vii) Applicant shall mark his attendance before concerned IO (and if IO is not available then to concerned SHO) every alternative /second day through mobile by sharing his/her location with the SHO concerned till the chargesheet is filed;*
- viii) Applicant shall further make a call, preferably by audio plus video mode to concerned IO, (and if IO is not available then to concerned SHO) once a week, preferably on Monday between 10 a.m. to 5 p.m. till the chargesheet is filed.*
- ix) Applicant shall keep their such mobile number 'Switched On' at all the time, particularly between 8 am to 8 pm everyday till the chargesheet is filed*
- x) That applicant will cooperate with the investigation / IO / SHO concerned and will appear before IO / Trial Court as and when called as per law.*
- xi) Applicant will not indulge in any kind of activities which are alleged against him in the present case.*

It is clarified that in case if the applicants/ 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

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**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 order through electronic mode. Copy of this order be also sent to Jail Superintendent concerned through electronic mode.**

**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  
17.12.2020**

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

**BAIL APPLICAITON No:2041/2020**

**State v. Rahul @ Aryan**  
**FIR No. :1183/2020**  
**P. S: Rajinder Nagar**  
**U/s: 379, 411 IPC**

**17.12.2020.**

**This court is also discharging bail roster duty. Further, one of the steno is on leave today.**

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

Mr. Hari Dutt Sharma, learned LAC for accused/applicant through VC.

Vide this order, regular bail application u/s 439 Cr.PC dated 27.11.2020 filed by the accused through DLSA is disposed off.

It is stated in such application that he has been falsely implicated in the present case; that he is in JC since 15.01.2020; that nothing has been recovered from the possession of the applicant and the recovery, if any, is totally planted upon him; that he is no more required for the purpose of investigation; that no purpose would be served by keeping him in JC. As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by the IO, as also argued by learned Addl.PP for the State that accused was arrested with the stolen scooty in question later on; that he may not be available for trial if released on bail. It is further stated that it is his second bail application.

As such, **issue notice to IO for clarification regarding order on the first bail application particularly whether it was filed before the sessions Court or MM court.** Put up for 13/01/2021.

Further, learned counsel for the accused is also at liberty to place on record bail order if any passed by Sessions Court.

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**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central/Delhi)**  
**17.12.2020**

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

**Application No.:- 1928/2020**  
**State Vs Suhail @ Sunny**  
**FIR No.201/2020**  
**P. S. Kamla Market**  
**U/s: 392, 411 IPC**

**17/12/2020**

Present: Mr . Pawan Kumar, Learned Addl. PP for State is available  
through VC.  
None for accused.

Arguments already heard. Today the case was fixed for orders.

Vide this order, bail application u/s 439 Cr.PC dated 20/11/2020  
filed by applicant through counsel is disposed off.

I have heard both the sides.

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

*State Vs Suhail @ Sunny*  
*FIR No.201/2020*  
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*U/s: 392, 411 IPC*

circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after convictions, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earlier times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial ,but in such case 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the constitution that any persons should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty under Article 21 of the Constitution upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439 CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

But, the liberty of an individual is not absolute. The Society by its

collective wisdom through process of law can withdraw the liberty that it has sanctioned to an individual when an individual becomes a danger to the societal order. A society expects responsibility and accountability from the member, and it desires that the citizens should obey the law, respecting it as a cherished social norm. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly thing which the society disapproves, the legal consequences are bound to follow.

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

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

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

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

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

It is argued on behalf of accused that he is in JC since 30/08/2020; nothing has been recovered from the possession of the accused or at his instance except the planted recovery; that investigation is already complete and he is no

more required for investigation; that he is permanent resident of Delhi; that allegations against the accused are only under section 411 IPC; 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 dated 20/11/2020 filed by IO SI Mahesh Kumar. as also argued by learned substitute Addl.PP for the State it is stated that Present accused along with co-accused Nandu by chopping the throat of complainant committed the robbery in question and looted three mobile phones and wallet of the complainant; that such two mobile and wallet were recovered from the house of present accused later on. That he is involved in five other criminal cases. As such, present bail application is strongly opposed.

The accused was not arrested on the spot but later on. The allegations against the accused are u/s 411 IPC only. Further, it is not clear whether accused was identified by the complainant or not. Further, in any case 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 but only involvement 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. 10,000/- with two sound sureties 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.*

: 7 :

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.

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**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central/Delhi)**  
**17.12.2020**

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

**BAIL APPLICATION NO.:2171/2020**

**State v. Nadeem  
FIR No. : 212/2020  
PS: Sarai Rohilla  
U/S: 392, 394,397,411,34 IPC**

**17.12.2020**

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

Vide this order, the regular bail application under section 439 Cr.P.C. on behalf of accused dated 11.12.2020 filed through counsel is disposed of.

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

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

*State v. Nadeem  
FIR No. : 212/2020  
PS: Sarai Rohilla  
U/S: 392, 394,397,411,34 IPC*

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

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

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

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

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

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of

the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745** ).

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

discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

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

In the present case, it is argued that accused is falsely implicated in the present case and he is in JC since 27.08.2020. Chargesheet is already filed. As such, investigation is already complete. That co-accused Tarvaj is granted bail by JJB. Wife of accused is pregnant and delivery is due in January. As such, presence of the accused is required for supporting the wife. As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by IO SI Vinod Nain and as also argued by the learned Addl.PP for the state, it is argued that there

are specific and serious allegations against the present accused. That present accused alongwith two co-accused snatched mobile phone of the complainant and threatened to kill him when the complainant demanded back his mobile. That present accused took out a sharp and pointed knife and stabbed the complainant on his left leg and then all the four accused fled from there. Later such robbed mobile and knife was recovered from present accused only. That he was formally arrested later on as he was in JC in another case; that he refused the TIP; that chargesheet is already filed. That present accused is involved in other similar cases also. As such, present application is opposed.

I find force in the arguments of learned Addl.PP for the state. The offence is serious in nature and is nuisance to public at large. The present accused as per the prosecution case, stabbed the complainant with knife when complainant resisted in the attempt of accused side of robbing the mobile. Further such mobile is recovered from present accused only. Further, offence u/s 394 is punishable upto imprisonment for life. As such, this court do not find sufficient reasons to enlarge present accused on bail in the present case. **With these observations, present application is dismissed.**

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.

**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 concerned and Jail Superintendent concerned through electronic mode.**

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KASHYAP

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**(Naveen Kumar Kashyap)**  
**Additional Sessions Judge-04**  
**Central/THC/Delhi**  
**17.12.2020**

*State v. Nadeem*  
*FIR No. : 212/2020*  
*PS: Sarai Rohilla*  
*U/S: 392, 394,397,411,34 IPC*

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

**BAIL APPLICAITON No: 1893/2020**

**State v. Ajab Singh**  
**FIR No. : 436/2018**  
**P. S: Karol Bagh**  
**U/s: 395, 397, 120B IPC**

**17.12.2020.**

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

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

Arguments already heard.

Today, case was fixed for orders.

Vide this order, regular bail application u/s 439 Cr.PC dated  
16.11.2020 filed through counsel is disposed of.

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

*State v. Ajab Singh*  
*FIR No. : 436/2018*  
*P. S: Karol Bagh*  
*U/s: 395, 397, 120B IPC*

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

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

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

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

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

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the

two higher Courts have only the procedural requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745** ).

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

inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

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

It is stated in such application that accused is on interim bail at present which is extended due to order passed by Hon'ble High Court and Hon'ble Supreme Court; chargesheet is already filed; that his earlier bail application was partly allowed and he was granted interim bail instead of regular bail vide order 14/07/2020; that now there is change in circumstances in as much as Hon'ble High Court is pleased to grant regular bail to the co-accused Sunil Gaur whose role is similar, vide order dated 26/11/2020. Thus on parity also accused seeks regular bail that trial is likely to take sometime. That because of corona pandemic his family is at the verge of starvation. As such, it is prayed that he be granted regular

bail.

On the other hand, in reply filed by the IO SI Gautam as also argued by learned Addl.PP for the State, it is stated that present accused alongwith co-accused entered into the shop of complainant with pistol and looted the complainant on gun point; later on present accused was arrested and pistol used in the offence was recovered; that he has played an active role in such dacoity; that he does not have any permanent resident in Delhi. As such, present bail application is opposed.

In the present case, it is a matter of record that co-accused Sunil is granted regular bail by Hon'ble High Court vide order dated 26/11/2020, copy of which is placed on record through e-mail in bail application no. 3531/2020. The role of present accused is similar to the role of the co-accused Sunil. Therefore, in view of observation made by Hon'ble High Court while deciding such bail application dated 26/11/2020, in para 3 to 7, the present accused is also granted regular bail on the same terms and condition as mentioned in para 7 of the order dated 26/11/2020.

In above facts and circumstances, such accused is granted bail subject to furnishing of **personal bond in the sum of Rs. 15,000/- with two sound sureties of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

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

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

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

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

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

*xi) Applicant will not indulge in any kind of activities which are alleged against him in the present case.*

It is clarified that in case if the applicants/ 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 order through electronic mode. Copy of this order be also sent to Jail Superintendent concerned through electronic mode.**

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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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KASHYAP

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**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central/Delhi)**  
**17.12.2020**

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

**BAIL APPLICATION No: 2084/2020**

**State v. Parvej @ Pajju**  
**FIR No. : 236/2020**  
**P. S: Lahori Gate**  
**U/s: 457,380 , 511, 411 r/w 34 IPC**

**17.12.2020.**

**This court is also discharging bail roster duty. Further, one of the steno is on leave today.**

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.  
Mr. Ayub Ahmed Qureshi, learned counsel for accused/applicant through VC.  
IO ASI Rishi Raj in person through VC.

Vide this order, regular bail application u/s 439 Cr.PC dated 07.12.2020 filed through counsel is disposed off.

It is stated in such application that he has been falsely implicated in the present case; that he is in JC since 02.09.2020; that applicant was arrested in case FIR Nos. 365/2020 PS Kotwali and thereafter 234/2020 PS Prasad Nagar and in both the cases and in both the cases he has been released on bail by this Court; that the name of applicant is not mentioned in FIR; that nothing has been recovered from the possession of the applicant and the recovery, if any, is totally planted upon him; that applicant belongs to a respectable family and has good reputation in society; that he is ready to give local surety; that chargesheet has been filed and there is no requirement for his judicial custody; that no purpose would be served by keeping him in JC. As such, it is prayed that he be granted regular bail.

*State v. Parvej @ Pajju*  
*FIR No. : 236/2020*  
*P. S: Lahori Gate*  
*U/s: 457,380 , 511, 411 r/w 34 IPC*

On the other hand, in reply filed by the IO, as also argued by learned Addl.PP for the State that complainants' case is that on 08/08/2020 coins of Rs.2000/-, one bundle of Rs.10 notes and about Rs. 700/- and notes of 50, 100, 200 (worth Rs.2000/-), 10 coins of silver, and Rs.8000/- were also stolen from the adjacent shop of Sanjay after breaking open the shuttle. That the recovery of cash has been effected from the possession of applicant and applicant has been arrested later on. As such, present bail application is opposed.

I have heard both the sides.

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

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

(Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

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

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

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

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for

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

Further it may also be noted that it is also settled law that while disposing of bail applications u/s 437/439 Cr.P.C., courts should

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

In the present case, it is a matter of record that accused is in JC since 02.09.2020. In fact, the period for seeking police remand is already over. Case property is already stated to be recovered. In fact case property is currency notes, and on inquiry by the Court IO failed to explain how come such case property is co-related with the case property which was stolen in the present case. Further, he is not arrested on the spot but later on. As such, no purpose would be served by keeping such accused in JC. Chargesheet is already filed. Further, it may be noted that there is fundamental presumption of innocence in any criminal case in India i.e. an accused is presumed innocent unless proved guilty. In present case, no previous conviction record is placed on record by the IO and at best there are cases alleging involvement of present accused in other similar cases.

In above facts and circumstances, such accused is granted bail subject to furnishing of **personal bond in the sum of Rs. 10,000/- with two sound sureties of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

- i) Applicant shall not flee from the justice;*
- ii) Applicant shall not tamper with the evidence;*
- iii) Applicant shall not threaten or contact in any manner to the prosecution witnesses ,*

- iv) Applicant shall not leave country without permission;*
- v) Applicant shall convey any change of address immediately to the IO and the court;*
- vi) Applicant shall also provide his mobile number to the IO;*
- vii) Applicant shall mark his attendance before concerned IO (and if IO is not available then to concerned SHO) every alternative /second day through mobile by sharing his/her location with the SHO concerned till the chargesheet is filed;*
- viii) Applicant shall further make a call, preferably by audio plus video mode to concerned IO, (and if IO is not available then to concerned SHO) once a week, preferably on Monday between 10 a.m. to 5 p.m. till the chargesheet is filed.*
- ix) Applicant shall keep their such mobile number 'Switched On' at all the time, particularly between 8 am to 8 pm everyday till the chargesheet is filed*
- x) That applicant will cooperate with the investigation / IO / SHO concerned and will appear before IO / Trial Court as and when called as per law.*
- xi) Applicant will not indulge in any kind of activities which are alleged against him in the present case.*

It is clarified that in case if the applicants/ 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

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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 order through electronic mode. Copy of this order be also sent to Jail Superintendent concerned through electronic mode.**

**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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**(NAVEEN KUMAR KASHYAP)  
ASJ-04(Central/Delhi  
17.12.2020**

**Anticipatory Bail**

**Bail Matters No.:2105/2020  
State Vs Vijay Kumar  
FIR No.:522/2020  
PS: Karol Bagh**

**At 4:00 PM  
17/12/2020**

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

**Arguments already heard in the morning sessions.**

1. Vide this order, anticipatory bail application dated 08/12/2020 under section 438 Cr.P.C. on behalf of accused filed through counsel is disposed off.
2. I have heard both the sides and gone through the record.
3. 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.
4. 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

*Bail Matters No.:2105/2020  
State Vs Vijay Kumar  
FIR No.:522/2020  
PS: Karol Bagh*

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.”

5. 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."

6. 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.

7. Another case to which can be referred to is the judgment of a Division Bench of this

*Bail Matters No.:2105/2020  
State Vs Vijay Kumar  
FIR No.:522/2020  
PS: Karol Bagh*

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.....”

8. 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.

*Bail Matters No.:2105/2020  
State Vs Vijay Kumar  
FIR No.:522/2020  
PS: Karol Bagh*

(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.

9. In the present case, it is argued by learned counsel for accused that there was animosity between the complainant side and the accused side already; that place of alleged occurrence of offence in question is in any case within the jurisdiction of PS Rajinder Nagar and not Karol Bagh but as police officials of PS Karol Bagh are in hand and glove with the complainant side. Therefore, same got registered in PS Karol Bagh. It is further stated that alleged injury was simple in nature which is also reflected by the fact that immediately after such offence police took the injured to the spot. thus, he was able to walk. It is further argued that infact victim side was under the influence of liquor which is also clear from the MLC of the victim. It is further argued that at best offence made out is u/s 324 IPC and not 307 IPC. It is further argued that allegations of robbing the victim Gaurav Gaba of Rs. 40,000/- and

*Bail Matters No.:2105/2020  
State Vs Vijay Kumar  
FIR No.:522/2020  
PS: Karol Bagh*

gold chain is totally baseless and it also shows the conspiracy hatched by the complainant side in connivance with the local police of PS Karol Bagh. As such, it is prayed that he be granted anticipatory bail with direction to the IO / SHO to release him on bail in the event of his arrest in the present case.

10. On the other hand, reply is filed by the IO Inspector Sanjeev Mishra, as also argued by learned Addl.PP for the State that complainant Lucky Dhawan alongwith his friend Gaurav Gaba were eating at Subhash Kharode wala Pusa Road, Karol Bagh and the present accused came over there and stabbed the complainant Lucky Dhawan with the object to kill him. Further, as per the prosecution the present accused snatched Rs.40,000/- and gold chain from victim Gaurav Gaba. It is further claimed that recovery of weapon of offence, snatched cash, gold chain and vehicle used in the commission of offence are yet to be effected and all four accused are to be arrested. It is further stated that he may influence the witnesses. As such, present anticipatory bail application is strongly opposed.

11. In the present case, as per the FIR place of incident is a public place. Further, the alleged attack by the present accused / applicant is on the left thigh /leg ,and not on the vital part of the victim. Further, it is the admitted position that there is a prior animosity between the two sides. Further initially the offence registered is u/s 307 IPC only ,and there is no mentioning at all of robbing of Rs.40,000/- and gold chain which is not insignificant amount/item. Under these circumstances,at present accused is directed to join investigation .IO is directed not to take any coercive action against the present accused, provided he cooperate with the investigation and join investigation as and when so directed by the IO /

SHO concerned ,including in the afternoon of 19/12/2020.

12. Put up for further arguments / appropriate orders / proceedings for **15/01/2021**. IO to appear with case file on the next date of hearing including regarding the statement of witnesses ,particularly public witnesses recorded, if any, regarding the alleged incident in question ,as well as collection of CCTV footage of the area, if any, at the time of incident in question.

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**ASJ-04(Central/Delhi/17/12/2020)**

*Bail Matters No.:2105/2020*  
*State Vs Vijay Kumar*  
*FIR No.:522/2020*  
*PS: Karol Bagh*

Anticipatory Bail

Bail Matter No.: 1215/2020  
State Vs Barun Kumar Dutta  
FIR No. : 181/2019  
PS: Prashad Nagar  
U/S: 498A, 406, 34 IPC

17/12/2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.  
Mr. Prashant Ghai, learned counsel for accused through VC.  
IO Pooja Chaudhary also present through VC.

1. Arguments already heard and today the case was fixed for orders / clarification. Further clarification given by accused side as well as by the IO.
2. Vide this order, present anticipatory bail application dated 14/09/2020 filed by accused Barun Kumar Dutta under section 438 Cr.P.C. through counsel is disposed off.
3. 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.
4. A judgment which needs to be pointed out is a Constitution Bench

State Vs Barun Kumar Dutta  
FIR No. : 181/2019  
PS: Prashad Nagar  
U/S: 498A, 406, 34 IPC

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

State Vs Barun Kumar Dutta  
FIR No. : 181/2019  
PS: Prashad Nagar  
U/S: 498A, 406, 34 IPC

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.”

5. 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

State Vs Barun Kumar Dutta  
FIR No. : 181/2019  
PS: Prashad Nagar  
U/S: 498A, 406, 34 IPC

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

State Vs Barun Kumar Dutta  
FIR No. : 181/2019  
PS: Prashad Nagar  
U/S: 498A, 406, 34 IPC

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.”

6. 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

State Vs Barun Kumar Dutta  
FIR No. : 181/2019  
PS: Prashad Nagar  
U/S: 498A, 406, 34 IPC

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.

7. 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:

State Vs Barun Kumar Dutta  
FIR No. : 181/2019  
PS: Prashad Nagar  
U/S: 498A, 406, 34 IPC

“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.....”

8. 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 plenitude 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;

State Vs Barun Kumar Dutta  
FIR No. : 181/2019  
PS: Prashad Nagar  
U/S: 498A, 406, 34 IPC

(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.

9. In the present case, in nutshell, it is argued on behalf of applicant that marriage of the complainant and the applicant was solemnized in 2017; that present FIR is registered to meet the illegitimate demand of complainant; that present FIR is

State Vs Barun Kumar Dutta  
FIR No. : 181/2019  
PS: Prashad Nagar  
U/S: 498A, 406, 34 IPC

registered after one and half year of leaving the present complainant. That applicant fully cooperated with the police officials at CAW Cell; that he has roots in society; that now almost all the alleged dowry articles are already handed over to complainant side to IO. As such, it is prayed that to release the applicant in the event of his arrest.

10. On the other hand, it is submitted by complainant side that there are specific allegations of offence u/s 498A, 406 against the present accused; that the present accused and his family mentally and physically tortured complainant; further they even installed cctv camera in the bedroom of complainant which was not removed despite request made by the complainant. It is further stated that still complete dowry articles / Istridhan is not returned. As such, present application is strongly opposed.

11. Further, in reply filed by the IO as also submitted by IO in Court that after few days of marriage accused and his family members started started torturing her as per the complaint of complainant. That notice u/s 41A was issued to accused Barun Dutt to join investigation. The dowry articles and Istridhan list was handed over to him and he admitted some of the articles and was even ready to return the same but complainant was not ready to take back the same as first of all complainant wanted the money spent on various occasions back. Complainant stated that she wanted to take back her articles in Court only, list of which is attached with such reply dated 13/10/2020. During the course of arguments it is further submitted by the IO that as per

**State Vs Barun Kumar Dutta**  
**FIR No. : 181/2019**  
**PS: Prashad Nagar**  
**U/S: 498A, 406, 34 IPC**

the observation made by this Court, search was conducted at the house of present applicant and most of the articles given in the list is already recovered and only some small items totaling amount Rs. 15,000/- to Rs.20,000/- still in dispute.

12. In the present case, there is delay in registration of FIR. Further, at present most of the articles regarding which offence u/s 406 IPC is alleged is already recovered. Further, offence in question is punishable upto 3 years only. The custodial interrogation of the accused is not required in the present case. Rest is matter of trial. As such, he be released on bail in the event of his arrest on furnishing of personal bond and surety bond in the sum of Rs. 30,000/-, subject further following conditions.

- i) That he will appear before Trial Court as and when called as per law.*
- ii) He will not indulge in any kind of activities which are alleged against him in the present case.*
- iii) That he will not leave India without permission of the Court.*
- iv) He will not contact or threaten the witness or tampering with evidence.*

13. 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.

State Vs Barun Kumar Dutta  
FIR No. : 181/2019  
PS: Prashad Nagar  
U/S: 498A, 406, 34 IPC

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

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

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**ASJ-04(Central/Delhi/17/12/2020)**

**State Vs Barun Kumar Dutta**  
**FIR No. : 181/2019**  
**PS: Prashad Nagar**  
**U/S: 498A, 406, 34 IPC**

**Bail Matters No.: 1693/2020**  
**State Vs Harshad @ Happy**  
**FIR No.:226/2020**  
**PS: Prasad Nagar**

**17/12/2020**

**One of the Steno is on leave today.**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.  
Mr. Gaurav Arora, learned counsel for the applicant through VC.  
Mr. Bapa Ghosh, learned counsel for complainant through VC.  
IO is not present.

Issue fresh notice to IO for the next date of hearing.

Put up for arguments and appropriate orders for **13/01/2021**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.12.2020**

**Bail Matters Nos.:2169 & 2170/2020**  
**State Vs Pawan Rekha @ Pinki & Kusum Lata**  
**FIR No.: 481/2020**  
**PS: Karol Bagh**

**17/12/2020**

**One of the Steno is on leave today.**

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

Mr. Moni Cinmoy, learned counsel for both the applicants through VC.

Further Mr. Jagdish Singh, learned counsel for complainant through VC.

Reply filed by the IO.

Arguments in detail heard.

Issue notice to IO to appear with case file on the next date of hearing at the time of further arguments. In the meanwhile, complainant side to provide list of articles which is as per their allegations is forming part of offence u/s 406 IPC to the IO as well as to this Court through electronic mode.

Put up for further arguments on **14/01/2021**. In the meanwhile, IO is directed not to take any coercive action against the applicants provided they will fully cooperate with the investigation. Further IO is reminded of the provisions of section 160 Cr.PC regarding investigation of females at the place of their residence only as both the applicants are female in this case.

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**ASJ-04/Central/17.12.2020**

**Bail Matters No.: 2172/2020**  
**State Vs Sachin**  
**FIR No.: 467/2020**  
**PS: Sarai Rohilla**

**17/12/2020**

**One of the Steno is on leave today.**

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

Reply filed by the IO.

Part arguments heard in detail.

Issue notice to IO to appear with case file through VC, particularly, regarding material collected qua section 328 IPC and whether TIP of accused was attempted in this matter or not.

Put up for **14/01/2021**

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.12.2020**

**Bail Matters No.: 2173/2020**  
**State Vs Nitin Agarwal**  
**FIR No.: 458/2020**  
**PS: Karol Bagh**

**17/12/2020**

**One of the Steno is on leave today.**

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

Mr. Vijay Kumar Gupta, learned counsel for the applicant through VC.

IO SI Sri Narayan in person through VC.

Mr. Naveen Sharma, learned counsel for complainant through VC.

Arguments in detail heard from all the sides.

Learned counsel for complainant is at liberty to file case law only, if any,  
through e-mail.

Put up for orders for **19/12/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.12.2020**

**Bail Matters No.:1945/2020  
State Vs Renu Singh  
FIR No.:223/2020  
PS:Lahori Gate**

**17/12/2020**

**One of the Steno is on leave today.**

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

Today again nobody is present on behalf of applicant. Even on the last date of hearing none was present on behalf of applicant.

As such, bail application is dismissed in default. Interim order, if any, stands vacated automatically as such.

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**(Naveen Kumar Kashyap)  
ASJ-04/Central/17.12.2020**

**Bail Matters No.:2105/2020  
State Vs Vijay Kumar  
FIR No.:522/2020  
PS: Karol Bagh**

**17/12/2020**

**One of the Steno is on leave today.**

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

Mr. Ghanshyam Sharma, learned counsel for the applicant through VC.

IO Inspector Sanjeev.

Learned counsel for the applicant mentioned that item case FIR No. 522/2020 PS Karol Bagh of applicant Vijay Kumar was listed lastly on 15/12/2020 and the same was kept for orders for today i.e. 17/12/2020. But it appears that it is wrongly listed for 17/01/2021

Heard. The same stands corrected.

The matter is taken up as such today as its was meant to be listed for today. Further IO Inspector Sanjeev is also present through VC. He has given further rectified reply mentioning all the offence involved in such new reply. The same is taken on record. Copy of the same be supplied to the counsel for the accused through electronic mode.

Further arguments heard. Put up for orders at **4:00 PM today.**

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**(Naveen Kumar Kashyap)  
ASJ-04/Central/17.12.2020**

**Bail Matters No.:1319/2020**  
**State Vs Varun Aggarwal & others**  
**FIR No.:220/2020**  
**PS: Prasad Nagar**

**17/12/2020**

**One of the Steno is on leave today.**

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

None for the accused / applicant.

Mr. Ravinder Saini, learned counsel for the complainant through VC.

IO Pooja Chaudhary also present through VC.

IO submitted that accused joined investigation and claimed that there is no locker of accused or his family.

On the other hand, it is pointed out by learned counsel for complainant that none was present on behalf of accused on last date of hearing nor anyone is present today.

Heard.

Still in the interest of justice, put up for appearance of applicant side.

**It is made clear that there is no interim protection as already noted on the last date of hearing from this Court in favour of the present five applicants. As such, IO is supposed to proceed further on merit as per law.**

**Put up for 14/01/2021. A copy of this order be sent SHO / IO concerned.**

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.12.2020**

**Bail Matters No.:2168/2020**  
**State Vs Shailender Prasad**  
**FIR No.: 235/2020**  
**PS: Kamla Market**

**17/12/2020**

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

Vide this order the regular bail application dated 14/12/2020 moved by the accused Shailender Prasad is disposed off

In nutshell, it is argued that now the chargesheet is already filed as such there is a material change in circumstances since dismissal of last bail application; that despite availability no CCTV footage collected by the IO; as per the final MLC the injury was simple in nature. That he was arrested later on from his house and not from spot. that recovery of knife is a common household vegetable knife; that there is discrepancy in the date of arrest; that investigation is complete; that he is a government employee and has roots in society; that this is the fourth regular bail application; no purpose would be served by keeping him in JC; that trial is likely to take time. The maximum punishment for the offences alleged is upto 7 years only.

On the other hand, in reply filed by the IO as also argued by learned Addl.PP for the State, it is stated that his earlier application is already rejected by this Court on 04/12/2020; there is no material change in circumstances since dismissal of such bail application except filing of chargesheet; that he injured the victim in stomach with knife. As such, present bail application is strongly opposed.

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

Now the chargesheet is already filed. Further, the offence alleged as per the

chargesheet are punishable upto 7 years only. Trial is likely to take sometime particularly in the present pandemic situation. In above facts and circumstances, such accused is granted bail subject to furnishing of **personal bond in the sum of Rs. 25,000/- with one sound surety of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

- i) Applicant shall not flee from the justice;*
- ii) Applicant shall not tamper with the evidence;*
- iii) Applicant shall not threaten or contact in any manner to the prosecution witnesses ,*
- iv) Applicant shall not leave country without permission;*
- v) Applicant shall convey any change of address immediately to the IO and the court;*
- vi) Applicant will not indulge in any kind of activities which are alleged against him in the present case.*

It is clarified that in case if the applicants/ 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 order through electronic mode. Copy of this order be also sent to Jail Superintendent concerned through electronic mode.**

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/17.12.2020**

**State Vs.Vipin Sharma @ Vipin kumar Sharma  
(Application for extension of IB of Vipin Sharma)  
FIR No. : 213/2018  
PS: Lahori Gate**

**17.12.2020.**

**Undersigned is also discharging bail roster duty. Further, one of the steno is on leave today.**

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

**Put up for further appropriate orders / proceedings for 27/01/2021.**

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**(Naveen Kumar Kashyap)  
ASJ-04/Central/17.12.2020**

**State Vs. Bablu Mathur & ors**  
**(Application for release of RC)**  
**FIR No. : 221/2015**  
**PS: Karol Bagh**

**17.12.2020.**

**Undersigned is also discharging bail roster duty. Further, one of the steno is on leave today.**

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

**Put up for tomorrow i.e. 18/12/2020 for appropriate orders.**

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.12.2020**

**State Vs. Vipin Sharma & others**  
**(Bail application of Shail)**  
**FIR No. : 213/2018**  
**PS: Lahori Gate**

**17.12.2020.**

**Undersigned is also discharging bail roster duty. Further, one of the steno is on leave today.**

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

It is stated by the counsel for the applicant that the name of applicant / accused is Sahil which is wrongly mentioned as Shail. The same is noted.

Reply filed by the IO dated 18/11/2020.

Part arguments heard in detail.

Put up for further arguments particularly regarding grounds of rejection of the last bail application of this accused, and the grounds for granted the bail to co-accused persons and the grounds for rejection of bail to the co-accused persons.

Put up for **14/01/2021**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.12.2020**

**State Vs.Mukesh @ Lamboo & others  
(Bail application of Vicky @ Ravi)  
FIR No. :200/2010  
PS: Pahar Ganj**

**17.12.2020.**

**Undersigned is also discharging bail roster duty. Further, one of the steno is on leave today.**

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.  
Mr. S.N. Shukla,learned LAC for applicant through VC.

Reply not filed by the IO.

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

Put up for reply, arguments and appropriate orders for **14/01/2021**.

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**(Naveen Kumar Kashyap)  
ASJ-04/Central/17.12.2020**

**State Vs.Tehsin @ Kevda &others  
(Bail of accused Arshad)  
FIR No. : 20/2015  
PS: Kamla Market**

**17.12.2020.**

**Undersigned is also discharging bail roster duty. Further, one of the steno is on leave today.**

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

Put up for further arguments / clarification including regarding bail granted to co-accused, grounds of such bail, role of present accused viz-a-viz role of such accused.

**Put up for 14/01/2021.**

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**(Naveen Kumar Kashyap)  
ASJ-04/Central/17.12.2020**

**State Vs. Raj Bahadur & others  
(Regular Bail of Sanjay Dharamvir)  
FIR No. : 130/2014  
PS: Kamla Market**

**17.12.2020.**

**Undersigned is also discharging bail roster duty. Further, one of the steno is on leave today.**

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

Further arguments / clarification given.

Put up for orders with case file for tomorrow i.e. **18/12/2020.**

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**(Naveen Kumar Kashyap)  
ASJ-04/Central/17.12.2020**

**State Vs. Sunil @ Kalu & others  
(Extension of IB of Surrender)  
FIR No. : 303/2014  
PS: Subzi Mandi**

**17.12.2020.**

**Undersigned is also discharging bail roster duty. Further, one of the steno  
is on leave today.**

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

In view of the order passed by the Hon'ble Supreme Court, put up for further  
appropriate orders / directions for **27/01/2021**.

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**(Naveen Kumar Kashyap)  
ASJ-04/Central/17.12.2020**

**State Vs. Bhola  
(Bail of Bhola)  
FIR No. : 79/2018  
PS: Kotwali**

**17.12.2020.**

**Undersigned is also discharging bail roster duty. Further, one of the steno is on leave today.**

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

It is stated that accused is on interim bail based on the criteria of Hon'ble High Court of Delhi.

At request, put up for arguments on this regular bail application for

**14/01/2021.**

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**(Naveen Kumar Kashyap)  
ASJ-04/Central/17.12.2020**

**State Vs. Inderjeet @ Rahul  
(Bail of Mohit)  
FIR No. : 19/2019  
PS: Timar Pur**

**17.12.2020.**

**Undersigned is also discharging bail roster duty. Further, one of the steno is on leave today.**

**File is taken up today.**

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

It is pointed out by Ahlmad that date is wrongly mentioned as 17/12/2021 instead of 17/12/2020. The same stands corrected accordingly.

Arguments already heard in this case.

Put up for orders at 4:00 PM today itself.

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**(Naveen Kumar Kashyap)  
ASJ-04/Central/17.12.2020**

**State Vs. Sanjay & Anr  
(Bail of Akshay)  
FIR No. : 231/2016  
PS: Sadar Bazar**

**17.12.2020.**

**Undersigned is also discharging bail roster duty. Further, one of the steno is on leave today.**

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

This is fresh application seeking grant of regular bail.

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

Put up for reply, arguments and appropriate orders for **14/01/2021**.

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**(Naveen Kumar Kashyap)  
ASJ-04/Central/17.12.2020**

**State Vs. Inderjeet @ Rahul & others  
(Bail of Mohit)  
FIR No. : 19/2019  
PS: Timar Pur**

**17.12.2020.**

**Undersigned is also discharging bail roster duty. Further, one of the steno is on leave today.**

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

Case file is required in the present case.

As such, put up with the case file for tomorrow i.e. the physical hearing day of this Court **18/12/2020**.

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**(Naveen Kumar Kashyap)  
ASJ-04/Central/17.12.2020**

**CA No.: 382/2019**  
**Shashikant Sharma Vs Kulbir Singh**

**17.12.2020**

*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.**

**One of the Steno is on leave today.**

Present: Mr. Shashikant Sharma appellant in person through VC.  
Mr. Gurdeep Singh, learned counsel for respondent alongwith respondent through VC.

Part submissions heard.

**Put up for further appropriate orders / arguments for 18/12/2020 at**

**2:00 PM.**

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.12.2020**

**CR no.: 721/2019**  
**Krishan Pal @ Neetu Tyagi Vs The State**

**17.12.2020**

*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.**

**One of the Steno is on leave today.**

Present: Mr. Ritesh Bhora, learned counsel for revisionist through VC.  
Mr. Pawan Kumar, learned Addl.PP for the State through VC.

It is submitted that some compromise has arrived in between the parties.

Further they have moved before the Hon'ble High Court for quashing of the same itself.

Put up for arguments in terms of previous orders and for further appropriate proceedings for **24/04/2021**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.12.2020**

**CA No.: 59/2020**  
**Rohit @ Machhi Vs State of NCT of Delhi**

**17.12.2020**

*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.**

**One of the Steno is on leave today.**

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

He submits that such Rohit is lodged at present in Jail No.4 Tihar Jail.

As such, issue production warrant of accused to be produced through VC from Jail No.4 itself at the time of pronouncement of judgment / clarification, if any, for **21/12/2020**. Such production warrant be issued forthwith.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.12.2020**

**CR Nos. 293/20, 294/20, 295/20 & 296/2020**  
**Nand Ballabh Sharma,**  
**Anand Singh Rawat,**  
**Vineet Kumar &**  
**Pradeep Kumar Khanna**

**Vs**  
**State**

**17.12.2020**

*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.**

**One of the Steno is on leave today.**

**These are four revisions received by way of assignment. It be checked and registered separately.**

Present: Learned counsel for revisionist through VC.

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

Put up for consideration, arguments and appropriate orders regarding limitation aspect in filing of present revision petitions for **01/02/2021**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/17.12.2020**