

: 1 :

Bail Application

**State Vs Rakesh @ Tinda S/o Babu Lal
FIR No. 20/2020
(wrongly mentioned as 22/20 in causerlist)
PS.: Nabi Karim
U/s: 324,307,34 IPC**

02.07.2020

**Present: Mr. Manoj Garg, Learned Addl. PP for State
through VC.
Mr. Zia Afroz, learned counsel for the
applicant / accused through VC.**

The bail application of such accused has already dismissed vide a reasoned order yesterday itself which was moved through some other counsel Sh. Anil kumar.

In this background, it is stated by counsel for applicant that present application be dismissed as withdrawn.

As such, in view of submissions of learned counsel for applicant/accused, present bail application is dismissed as withdrawn.

Copy of this order be sent to IO/SHO concerned as well as to learned Ilaka Magistrate.

**(Naveen Kumar Kashyap)
ASJ-04/Central/THC/Delhi
02.07.2020**

: 1 :

INTERIM BAIL APPLICATION

State v. Raja @Rajvir @ Sunder Singh S/o Sh. Munni Lal
FIR No. 416/2017
PS.: Burari
U/s: 302 IPC

02.07.2020

Present: Mr. Manoj Garg, Learned Addl. PP for State
through VC.
Mr. Sachin Kr. Jain, learned counsel for the
applicant / accused through VC.

Report received form Jail Authority. But reply not filed
by IO. Previous order dated 27.06.2020 be complied afresh.

**Fresh report be filed by IO in terms of such order
for 06.07.2020.**

(Naveen Kumar Kashyap)
ASJ-04/Central/THC/Delhi
02.07.2020

BAIL APPLICATION

FIR No. :0147/2020

PS: Pahar Ganj

STATE v. Raman Kumar s/o Pawan Kumar

U/S: 326 IPC

02.07.2020.

Present: Sh. Manoj Garg, Addl. PP for the State through VC.
Mr. Ashwani Gaur, learned counsel for applicant /
accused in person.

Short reply filed on behalf of IO stating that O is on
leave.

Part arguments heard.

Put up for reply from the IO and in case IO is still on
leave, **reply be filed by the SHO concerned.**

Put up for further reply, if any, arguments and
appropriate order for **04/07/2020.**

(Naveen Kumar Kashyap)

ASJ-04/Central/THC

02.07.2020

BAIL APPLICATION

FIR No. :124/2020

PS: Pahar Ganj

STATE v. Hanu Mehra s/o Mr. Vijay Kumar Mehra

U/S: 354A, 354D, 506 IPC

02.07.2020.

Present: Sh. Manoj Garg, Addl. PP for the State through VC.
Mr. Kulbhushan Mehra and Mr. Aditya Mehra,
learned counsel for applicant through VC.

Fresh anticipatory bail filed on behalf of applicant
Hanu Mehra through his counsel.

Put up for reply, further arguments and appropriate
order for **06/07/2020**.

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

At this stage, one Mr. Vijay Kumar Mehra father of
applicant Hanu Mehra also joined proceedings through webex.
Although, no link to such person was sent by this court.

As such, put up for clarification from the counsel as
to how come such father of the applicant got link of the meeting
through webex in this case.

Put up on the date already fixed.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
02.07.2020

BAIL APPLICATION

FIR No. :89/2020

PS: Nabi Karim

STATE v. Sandeep Kumar s/o Mr. Rajendra Shahi

U/S: 376D, 354, 509 IPC

02.07.2020.

Present: Sh. Manoj Garg, Addl. PP for the State through VC.
IO is present through VC.

Learned counsel for the applicant is stated to be busy in another matter.

Report regarding non execution of notice to complainant filed by the IO dated 01/07/2020 stating that despite best efforts made such complainant could not be traced.

Be awaited for the counsel for the applicant.

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

At 11:45 PM

Present: Sh. Manoj Garg, Addl. PP for the State through VC.
Mr. Vikas Arora, learned counsel for applicant through VC.
Part arguments heard in detail.

During the course of the arguments, it it stated that admittedly cctv footage of the place of incident was seized by the police but the same is not made the part of the chargesheet. It is stated that in such cctv footage, inter-alia, the gesture and conduct of alleged victim are recorded on the date of incident. It is further claimed that she, at the instance of accused Huney

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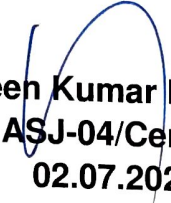
FIR No. :89/2020
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U/S: 376D, 354, 509 IPC

and Gopal, is falsely making serious allegations in questions.

It is further stated that as per PCR call, the issue was regarding quarrel and no allegation of present nature. It is further stated that there are many discrepancies in the present case and accused is not even summoned for asking to joint investigation by the IO / SHO concerned. It is further stated that chargesheet has already been filed.

Put up for further arguments for **07/07/2020**. Chargesheet be summoned from the Ilaka Magistrate. Further IO be present in person or through VC at the time of further arguments. Further issue fresh notice to complainant in the prescribed format as directed on 30/06/2020 by this court through DCP concerned for the next date of hearing.

In the meanwhile, IO / SHO concerned is directed not to take any coercive action against the applicant till the next date of hearing only.


(Naveen Kumar Kashyap)
ASJ-04/Central/THC
02.07.2020

BAIL APPLICATION

FIR No. :58/2016

PS: Burari

STATE v. Anil Kumar s/o Mr. Achhey Lal

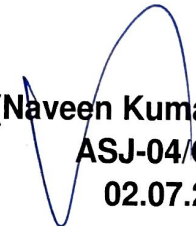
U/S: 302 / 34 IPC

02.07.2020.

Present: Sh. Manoj Garg, Addl. PP for the State through VC.
Mr. Ashwani Saxena, learned counsel for the
accused through VC.
Inspector Ashok Kumar is also present in person.

He has stated that infact earlier no notice / mail
regarding reply from police officer concerned is received that is
why also no reply could be filed.

As such, concerned staff to give his comment
regarding notices sent to police / IO in this case regarding order
dated 15/06/2020, 22/06/2020, 25/06/2020 and 29/06/2020 by
3:00 PM today itself.


(Naveen Kumar Kashyap)
ASJ-04/Central/THC
02.07.2020

INTERIM BAIL APPLICATION

FIR No. :58/2016

PS: Burari

STATE v. Anil Kumar s/o Mr. Achhey Lal

U/S: 302 / 34 IPC

02.07.2020.

Present: Sh. Manoj Garg, Addl. PP for the State through VC.
Mr. Ashwani Saxena, learned counsel for the
accused through VC.
Inspector Ashok Kumar is also present in person.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020 and 20.06.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority, present application is taken up.*

2. Reply filed by the IO.

3. Arguments heard.

4. Present application dated 11.06.2020 is filed through counsel. It is stated that accused is in JC since for more than **two years** (which fact is now even verified by IO in his report).

FIR No. :58/2016

PS: Burari

STATE v. Anil Kumar s/o Mr. Achhey Lal

U/S: 302 / 34 IPC

5. **Further, a report regarding satisfactory / good conduct** as well as copy of **custody warrant** is now filed by Jail Authority.

6. Further, a report is filed by IO/SHO concerned. As per such report, there is no previous conviction or involvement record of such accused. **Further, it is stated that offences alleged against accused is Section 302 IPC.**

7. In view of report by jail supdt concerned , reply given by IO and direction by Hon'ble High Court of Delhi, case of the accused is covered under directions as passed by Hon'ble High Court, as mentioned above. Further, accused is in JC since more than **two years** at present.

As such, in the above position, facts and circumstances of present case and the directions by Hon'ble High Court, applicant/accused is admitted to interim bail for a period of 45 days from the date of release on furnishing personal bond **in the sum of Rs. 10,000/- to the satisfaction of the Jail Superintendent concerned.** After completion of the interim bail period applicant shall surrender before concerned Jail Superintendent. Necessary intimation be sent to concerned Jail Superintendent accordingly.

7.1. In the facts and circumstances of present case and the reply filed by the IO/SHO following conditions are also imposed on present accused for such interim bail :

- i) Applicant shall not flee from the justice;**
- ii) Applicant shall not tamper with the evidence;**
- iii) Applicant shall not threaten or contact in**

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- 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/her mobile number to the IO;
 - vii)** Applicant shall mark his /her 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;
 - 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.
 - ix)** Applicant shall keep his / her such mobile number 'Switched On' at all the time , particularly between 8 am to 8 pm everyday.

8. The present application stands disposed off accordingly. Both side are at liberty to collect the order dasti or through electronic mode.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
Central District/02.07.2020

BAIL APPLICATION

**FIR No. :31/2017
PS: Delhi Cantt Railway Station
STATE v. Kalu @ Ajay Rajput
U/S: 302/201/34 IPC**

02.07.2020.

Present: Sh. Manoj Garg, Addl. PP for the State through VC.
Mr. Neel Gulia, learned counsel for applicant /
accused.

Reply not filed by the IO.

Put up for reply, arguments and appropriate order
with case file for **06/07/2020**.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
02.07.2020

BAIL APPLICATION

FIR No. : 316/2019

PS: Pahar Ganj

STATE v. Shabir Dandoo s/o Ali Dandoo

U/S: 420, 376, 354, 506, 34, 174A IPC

02.07.2020.

Present: Sh. Manoj Garg, Addl. PP for the State through VC.
Mr. Rajeev Sirohi, learned counsel for the accused
through VC.

It is stated that connected matter relating to co-accused is already listed for tomorrow in which complainant side is also participating.

As such, put up for reply, arguments and appropriate order with the connected matter for tomorrow i.e. **03/07/2020**. Issue notice to complainant also for tomorrow itself.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
02.07.2020

: 1 :

INTERIM BAIL APPLICATION

State Vs. Sanjay s/o Kishan
FIR No.: 117/2017
PS: Karol Bagh
U/S: 302, 34 IPC

02.07.2020.

Present: Mr. Manoj Garg, Ld. Addl. PP for the State
through VC.
Mr. Sachin Kumar Jail, learned LAC counsel for
Accused through VC.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020 and 18.05.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority, present application is taken up.*

2. Reply filed by the IO. Further conduct report filed by the Jail Superintendent concerned.

3. Arguments heard.

4. It is argued on behalf of the accused that he is in JC for more than 03 years; that there is spread of corona pandemic; As such, it is prayed that he be released on interim bail for 45 days, in view of the criteria of Hon'ble High Court.

5. Reply filed by jail superintendent concerned as well

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FIR No.: 117/2017
PS: Karol Bagh
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as IO.

6. As per report of IO there is involvement of accused in some other matter namely FIR No.132/2009 and 131/2009 PS Old Delhi Railway Station.

7. Further, as per report of Jail Superintendent concerned, his conduct is satisfactory.

8. Thus, he does not fall under the relaxed criteria dated 18/05/2020 of the Hon'ble High Court, as there is other criminal involvement of present accused. As such, he cannot be given benefit of the same.

9. Further on merit, it is argued by the State that offence is serious in nature under section 302 IPC and there are scientific evidence against accused; that he is involved in a robbery matters also. As such present interim bail application is opposed.

10. Accused is charged with offence u/s 302 IPC which has a minimum punishment for life imprisonment. He is involved in other criminal matters also. Further no ground on merit is raised in the present interim bail application.

11. The present application stands disposed off accordingly as he does not fall under the criteria of Hon'ble High Court dated 18/05/2020.

12. Both side are at liberty to collect the order dasti or through electronic mode.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
Central District/02.07.2020

State Vs. Sanjay s/o Kishan
FIR No.: 117/2017
PS: Karol Bagh
U/S: 302, 34 IPC

: 1 :

INTERIM BAIL APPLICATION

State Vs. Sohanvir s/o Ram Dass
FIR No.: 445/2014
PS: Burari
U/S: 302, 34 IPC

02.07.2020.

Present: Mr. Manoj Garg, Ld. Addl. PP for the State
through VC.
Mr. Sachin Kumar Jail, learned LAC counsel for
Accused through VC.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020 and 18.05.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority, present application is taken up.*
2. Conduct report filed by the Jail Superintendent concerned.
3. Arguments heard.
4. It is argued on behalf of the accused that he is in JC for more than 06 years; that there is spread of corona pandemic; that there only two witnesses including the IO are remained to be examined; that he is suffering from acute neuro problem

State Vs. Sohanvir s/o Ram Dass
FIR No.: 445/2014
PS: Burari
U/S: 302, 34 IPC

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which has caused paralysis impact on his body and affected his right knee and lower back due to which he is unable to do his daily work; that he complained about the same in the jail hospital but he is not treated properly over there. As such, it is prayed that he wants to get treatment from private hospital. It is further stated that there is no previous involvement of present accused. That present application is moved at the instance of Rohit who is son of accused. As such, it is prayed that he be released on interim bail for 45 days.

5. Reply filed by jail superintendent concerned. As per report of Jail Superintendent concerned, his conduct is not good and twice and once on 22/02/2016 and again on 05/08/2019 prohibited articles were found and punishment was given to such UTP.

6. But report not filed by the IO. As such issue notice to IO in terms of the previous order for **07/07/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/THC
Central District/02.07.2020

: 1 :

State v. Jagdish Sharma
CA/DJ-54/2019

02.07.2020

Present: Mr. Manoj Garg, Learned Addl. PP for State through VC.
Mr. Vikas Rawat, learned counsel for the respondent/ original accused through electronic mode.
Accused/respondent is not present.

In this case, accused was acquitted by trial court.

Counsel for accused was contacted over phone. He states that he is unaware about the order passed by Hon'ble High Court regarding hearing through Webex. It is further submitted that so far he has not downloaded the same and needs some time to download and acquaint himself with the same.

As such, on request, put up for final arguments in terms of previous order through Webex/Electronic mode on 02.09.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC/Delhi
02.07.2020

BAIL APPLICATION

FIR No. :Not Known
PS: Nabi Karim
STATE v. Mohd. Istekhar & Ors
U/S: Not Known

02.07.2020.

Present: Sh. Manoj Garg, Addl. PP for the State through VC.
Complainant Gulshan Khatoon in person with
counsel Mr. Kalu Singh.
Mr. Muntazir Mehandi, learned counsel for accused
in person.

Further as per report filed by SI Ravi dated 29/06/2020 as well as 02/07/2020, it is stated that such complainant has made such allegations relating to sexual harassment against the present applicant Mohd. Istekhar & others. But during inquiry complainant has given an affidavit that she does not want any police action on her complaint against applicants.

It is stated by the learned counsel for the complainant initially complaint was given to police on 04/02/2020. Still it appears that no FIR is registered so far despite allegations relating to sexual harassment.

As such, before proceedings further, issue notice to SHO as well as to IO to be present in person or through VC at the time of next date of hearing including regarding clarification relating to section 166A IPC r/w section 354 IPC etc.

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FIR No. :Not Known
PS: Nabi Karim
STATE v. Mohd. Istekhar & Ors
U/S: Not Known

It is further submitted that there is some compromise going on in between the parties. Learned counsel for the accused has instructions to withdraw the present application.

Put up for consideration / appropriate order on the same for **07/07/2020**.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
02.07.2020

Bail Application

State Vs. Raju Ram Nehra s/o Mr. Rattan Lal Ji Nehra

FIR No. : 213/2018

PS: Lahori Gate

U/S: 395, 412, 34,120B IPC

02.07.2020

Present: Mr. Manoj Garg, Ld. Addl. PP for the State through VC
Mr. Alamine, learned Counsel for the Accused through VC.

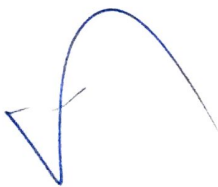
Vide this order, the regular bail application under section 439 Cr.P.C. on behalf of accused dated 06/05/2020 filed through counsel is disposed of.

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 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

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PS: Lahori Gate

U/S: 395, 412, 34, 120B IPC

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

State Vs. Raju Ram Nehra s/o Mr. Rattan Lal Ji Nehra

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U/S: 395, 412, 34, 120B IPC

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 chargesheet is already filed; that he is falsely involved in this case; that he is in JC for more than one year; that other co-accused Vipin and Hari Ram also granted bail; that nothing is recovered from such accused. As such, it is prayed that he be granted regular bail.

On the other hand, it is argued by the learned Addl.PP for the state that there are serious and specific allegations against the present accused; that he conspired with others to commit dacoity of Rs. 35 Lakh; that his presence is captured in cctv footage near the place of occurrence; that his mobile location is also near the place of occurrence; that he refused to participate in the TIP but later identified by the complainant; that case is at the stage of PE and public witnesses are yet to be examined. It is further stated that no regular bail is given to co-accused Vipin and Hari Ram and they were only given interim bail. Further interim bail of co-accused Sahil rejected

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twice including on 01/07/2020.

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. There are specific and serious allegations against the accused. Public witnesses including the complainant is not yet examined. As such, this court is not inclined to grant the relief as sought in the present application. Hence, the same is dismissed.

With these observations present bail application is disposed of as dismissed. Learned counsel for the applicant / accused is at liberty to collect the order dasti or through electronic mode. Copy of order be uploaded on the website.

(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi
02/07/2020

: 1 :

State v. Rahul Sharma & Ors.
FIR No. 339/2016
PS.: Darya Ganj
U/s: 395,397,412,201,120B IPC &
25,27 Arms Act

02.07.2020

Present: Mr. Manoj Garg, Learned Addl. PP for State through VC.
Mr. Akhilesh Kamle, learned counsel for the applicant / accused no.2 through VC.
Mr. Avnish Sharan, learned counsel for the applicant / accused no.3 through VC.
None for accused no.1 Rahul Sharma and accused no.4 Noori.

File taken up today in view of order passed by Hon'ble High Court dated 12.06.2020 in which inter alia it is stated that trial court shall make endeavour to expedite the recording of testimony of complainant.

As already noted on 23.06.2020, there is another order passed by Hon'ble High Court and according to the same, all urgent matters be taken up in court except matter pending in evidence.

Further, in any case, none is present on behalf of co-accused Rahul Sharma and Noori. **As such, issue notice to such Rahul Sharma and Noori through Jail Superintendent concerned to produce them through Video Conferencing at the time of further hearing in this case.**

Further, issue notice to their counsel through Electronic mode if their phone number/E-mail is available on record.

Put up for further appropriate proceedings on 16.07.2020 through VC in view and compliance of order dated 12.06.2020 of Hon'ble High Court.

The regular next date of hearing stands cancelled accordingly.

(Naveen Kumar Kashyap)
ASJ-04/Central/02.07.2020

BAIL APPLICATION

State v. Rahul Sharma & Ors.
FIR No. 339/2016
PS.: Darya Ganj
U/s: 395,397,412,201,120B IPC &
25,27 Arms Act

At 1 pm.

02.07.2020

Present: Mr. Manoj Garg, Learned Addl. PP for State through VC.
Mr. Akhilesh Kamle, learned counsel for the applicant / accused no.2 through VC.
Mr. Himanshu Saxena, learned counsel for the applicant / accused no.2 only through VC.

1. In this case, it appears that one advocate after the another is appearing for the same accused Kishan Kumar.
2. Submissions/clarifications in detail heard from both such counsels for accused no.2.
3. Present interim bail application moved for accused Kishan Kumar through Himanshu saxena and he states that he has instructions from him to move such interim application. Further, it is stated by counsel Sh. Akhilesh Kamle that he does not have any objection to such application being moved by such counsel Sh. Himanshu Saxena.
4. Heard in detail. Record perused.
5. It appears that earlier regular bail application of this accused before this trial court was still pending. In the meanwhile, such accused on 21.04.2020 r/w 23.04.2020 pressed for his interim bail application and vide order dated 23.04.2020, learned Bail Duty ASJ Sh. Deepak Dabas dismissed such interim bail application moved through Sh. Akhilesh Kamle.
6. But from perusal of record, it is revealed that such learned counsel has moved Hon'ble High Court for regular bail and

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vide order dated 06.05.2020 in bail application no. 804/2020, directions are issued by High court to dispose of such "regular bail" application of such accused pending before this trial court.

7. But, as per record, it appears that later on learned Bail duty ASJ Ms. Charu Aggarwal already dismissed vide a reasoned order, such regular bail application pending before trial court, vide order dated 15.05.2020.

8. It appears that another regular bail application is filed before Hon'ble High Court and Hon'ble High Court was pleased to pass certain directions vide order dated 12.06.2020 on the same, regarding compliance of the same certain orders are already made by this court in the morning. It is further stated by learned counsel Sh. Akhilesh Kamle that such regular bail application before Hon'ble High Court is still pending.

9. In the meanwhile, in this background, another interim bail application under consideration at present dated 23.06.2020 is again moved on behalf of such accused through advocate Sh. Himanshu Saxena. But it can be seen that in such application, inter alia, the fact that his interim bail application is recently rejected on 23.04.2020 is not disclosed. At this stage, after some arguments on the same, learned counsel wants to withdraw the same. Same is dismissed as withdrawn with warning to the accused to apprise the complete facts to his learned counsel before moving bail applications one after another. **With these observations, present application is disposed of.**

10. **Copy of this order be given dasti to counsel for applicant or through electronic mode.**

(Naveen Kumar Kashyap)
ASJ-04/Central/THC/Delhi
02.07.2020

INTERIM BAIL APPLICATION

State Vs. Sonu @ Shankar @ Vivek
FIR No. : 23/2019
PS: Kotwali
U/S: 392,394,411,34 IPC

02.07.2020

Present: Mr. Manoj Garg, Ld. Addl. PP for the State through VC
Sh. Nitish Angrish and Ms. Mohini Chauhan, Ld. Counsels from for Accused through VC.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020 and 20.06.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority, present application is taken up.*

2. Reply already filed by IO .

3. Vide present bail application dated 19.06.2020, it is mentioned in prayer clause that accused be granted regular bail but it is already noted that on 25.06.2020 during the course of arguments, learned counsel sought/pressed only for interim bail.

4. Arguments heard.

5. In nutshell, it is stated and argued on behalf of

accused that accused is in JC since 17.01.2019. That he is the only bread earner in the family. That certain relaxed criteria is given by Hon'ble High Court vide its order dated 18.05.2020 and the accused falls in that criteria. As such, it is prayed that he be granted interim bail.

6. On the other hand, a detailed reply dated 01.07.2020 filed by the IO. It is further argued by learned Addl. PP for the state that present offence is very serious in nature and offences charged against the accused are punishable upto imprisonment for life. That public witness has supported the prosecution during his evidence in court. As such, present interim bail application is strongly opposed.

7. It is not the case of the accused that he himself is suffering from any of the illness as mentioned in Minutes of Meeting dated 18.04.2020 of Hon'ble High Court. As such, the case of the present accused does not fall under the relaxed criteria given by the Hon'ble High Court.

8. But it is also directed by Hon'ble High Court that even if the case of the accused do not fall under the criteria, then his application be heard and decided on merit.

9. On merit, on a bare reading of present application, it is clear that only vague and insufficient grounds raised in the present application and during arguments regarding interim bail i.e. general apprehension i.e. there is spread of corona virus and he is in JC for long and that he is the only bread earner of the family. But such grounds are found not sufficient by this court having regard to the nature of offence and allegations made against this accused. Further, from report, it is seen that although interim bail application is granted to co-accused Jasbir

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and Birju by learned Bail Duty ASJ. But it is also the matter of record that interim bail application of two other co-accused Yunus and Anil are also rejected by learned Duty ASJ. Further, more importantly interim bail application of the present accused was rejected recently on 22.05.2020 as he did not fall under the relaxed interim bail criteria. Now, even on merit this court do not find sufficient ground to grant the prayer sought in the present application. **With these observations, present interim bail application is dismissed.**

10. **Counsel for accused/applicant is at liberty to collect the order dasti or through electronic mode.**

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
02.07.2020.

Bail Application

State Vs. Ankush s/o Laxman Prasad

FIR No. : 361/2019

PS: Kotwali

U/S: 392, 411, 34,120B IPC

02.07.2020

Present: Mr. Manoj Garg, Ld. Addl. PP for the State through VC
Mr. Diwanshu Sehgal learned Counsel for the Accused through VC.

Vide this order, the regular bail application under section 439 Cr.P.C. on behalf of accused dated 11/06/2020 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 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

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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

State Vs. Ankush s/o Laxman Prasad

FIR No. : 361/2019

PS: Kotwali

U/S: 392, 411, 34,120B IPC

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

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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.

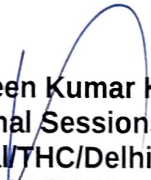
In the present case, accused is in JC for the last four months; that earlier his regular bail application u/s 439 Cr.PC was dismissed by Learned ASJ. Further thereafter his regular bail application u/s 437 Cr.PC was dismissed by learned MM. That he is falsely involved in the present case; that he has deep roots in society; that no role was assigned to him in the original FIR; that originally two people's name were mentioned in the FIR but later six persons were arrested in this case. It is further stated that he be granted regular bail.

On the other hand, it is argued by the learned Addl.PP for the state that there are serious and specific allegations against the present accused; that he is the main accused in the case and has refused to participate in the TIP; case is pending before Trial Court and charge is yet to be framed. It is further stated that in any case there is no material change in circumstances since dismissal of his earlier bail application dated 03/02/2020.

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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. There are specific and serious allegations against the accused. Public witnesses including the complainant is not yet examined. In fact on this ground only vide order dated 03/02/2020 his earlier bail application u/s 439 Cr.PC was rejected. As such, this court further find force in the arguments of learned Addl.PP that there is no material change in circumstances since dismissal of his last bail application. As such, this court is not inclined to grant the relief as sought in the present application. Hence, the same is dismissed.

With these observations present bail application is disposed of as dismissed. Learned counsel for the applicant / accused is at liberty to collect the order dasti or through electronic mode. Copy of this order be sent to IO / SHO concerned for their information. Copy of order be uploaded on the website.


(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi
02/07/2020

MISC APPLICATION

**FIR No. : 130/2014
PS: Kamla Market
STATE v. Raj Bahadur & Ors.**

02.07.2020.

Present: Sh. Manoj Garg, Addl. PP for the State through VC.
Mr. Abhishek, learned counsel for accused through VC.

An application is moved for release of mobile phone of applicant / accused Raj Bahadur on superdari.

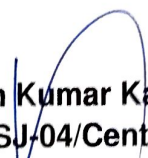
Reply filed by IO.

As per such reply, such mobile is not recovered in personal search but it is the case property of the present case.

On the other hand, it is stated that evidence regarding the mobile is already recorded.

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

Trial is still pending. Further, such mobile is part of case property. As such, this court is not inclined to grant the relief sought in the present application. With these observations present application is disposed of.


**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
02.07.2020**

BAIL APPLICATION

SC No.: 373/2019
FIR No. :19/2019
PS: Timar Pur
STATE v. Mohit
U/S: 323, 341, 308, 34 IPC

02.07.2020.

File is taken up on an application filed on behalf of applicant Mohit for surrender.

Present: Sh. Manoj Garg, Addl. PP for the State through VC.
Mr. Alamine, learned counsel for the accused through VC.

An application moved by applicant Mohit for surrender in the present case. It is further stated that he is falsely implicated in the present case in counter blast to the case file against the complainant side of the present case. It is further stated that he wants to surrender in the present case that his anticipatory bail application is already dismissed by the court. That before filing of such application, he had no knowledge about the process u/s 82 Cr.PC issued against him. It is prayed he be allowed to surrender in the present FIR before this court.

In reply dated 01/07/2020 filed by ASI Gautam Singh. It is stated that such accused was declared PO on 20/05/2019 in the present case. That as per the applicant, he got conducted covid-19 test and found positive on 23/06/2020. It is further stated that he is under home quarantine. If he surrenders before the court, he may infect the other persons and he may also violate the guidelines the HMA. As such, it is prayed he be

Contd...../-

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SC No.: 373/2019
FIR No. :19/2019
PS: Timar Pur
STATE v. Mohit

allowed to surrender after completion of his quarantine period /
negative report.

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

Having regard to the submissions made by the IO
that such applicant is found positive for covid-19 test on
23/06/2020, having regard to the nature of such infection, such
application is kept pending for consideration for appropriate
period. Put up for further proceedings appropriate period on
13/07/2020 through video conference only.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
02.07.2020

INTERIM BAIL APPLICATION

State Vs. Shakeel
FIR No. : 142/2017
PS: Lahori Gate
U/S: 395,397,412,34 IPC &
25/27 Arms Act

02.07.2020

Present: Mr. Manoj Garg, Ld. Addl. PP for the State through VC
Sh.A.A. Khan, Ld. Counsel from for Accused through VC.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020; 05.05.2020, 18.05.2020 and 20.06.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority, present application is taken up.*

2. Reply already filed by IO .

3. Arguments heard:

4. In nutshell, it is stated and argued on behalf of accused that accused is in JC since 04.06.2017. That he is the only bread earner in the family. That he has seven daughters and one son. That there is spread of corona virus pandemic.

That co-accused Jasbir and Birju have been granted interim bail.

5. On the other hand, a detailed reply dated 30.06.2020 filed by the IO. It is further argued by learned Addl. PP for the state that present offence is very serious in nature and offences charged against the accused are punishable upto imprisonment for life. It is further stated that accused is involved in another criminal case also. That public witnesses are yet to be examined. As such, present interim bail application is strongly opposed.

6. It is not the case of the accused that he himself is suffering from any of the illness as mentioned in Minutes of Meeting dated 18.04.2020 of Hon'ble High Court. As such, the case of the present accused does not fall under the relaxed criteria given by the Hon'ble High Court.

7. But it is also directed by Hon'ble High Court that even if the case of the accused do not fall under the criteria, then his application be heard and decided on merit.

8. Even otherwise on merit, apart from general apprehension i.e. there is spread of corona virus and he is in JC for long and that he is the only bread earner of the family. But such grounds are found not sufficient by this court having regard to the nature of offence and allegations made against this accused. Further, from report, it is seen that although interim bail application is granted to co-accused Jasbir and Birju by learned Bail Duty ASJ. But it is also the matter of record that interim bail application of two other co-accused Yunus and Anil are also rejected by learned Duty ASJ. Further, more importantly interim bail application of the present accused was rejected recently on 22.05.2020 as he did not fall under the

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relaxed interim bail criteria. Now, even on merit this court do not find sufficient ground to grant the prayer sought in the present application. **With these observations, present interim bail application is dismissed.**

9. **Counsel for accused/applicant is at liberty to collect the order dasti or through electronic mode.**

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
02.07.2020.