

State Vs. Lalit @ Aniket

e-FIR No.12296/2020

PS: Rajinder Nagar

ऋषभ कपूर
RISHABH KAPOOR
महानगर दण्डाधिकारी
Metropolitan Magistrate-3
केन्द्रीय जिला कमरा नं. 150
Central District, Room No. 150
तीस हजारी न्यायालय, दिल्ली
Tis Hazari Courts, Delhi

26.09.2020

Matter heard through VCC over Cisco Webex.

Case is taken up in view of Circular No. 23456-23616 DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30.08.2020 issued by Ld. District & Sessions Judge (HQ).

Present: Sh. Vakil Ahmad, Ld. APP for State

Sh. Pramod Kumar Ld. Counsel for applicant/accused

IO/HC Ravinder Singh

The present application was filed on behalf of the applicant, through email id of this court.

Scanned copy of reply of under the signatures of HC Ravinder Singh, is received through email id of the court. Copy of same is already supplied to Counsel for applicant/accused, electronically.

Heard. Record perused.

This order shall dispose of an application for **grant of bail u/s 437 of Cr.P.C.**, moved on behalf of **applicant/accused Lalit @ Aniket**.

It is averred on behalf of the applicant has been falsely implicated in the present case and alleged recovery is planted by the police. It is further averred that applicant is undergoing judicial custody since 09.08.2020. It is further averred that the main accused has already been admitted on bail, hence applicant/accused is entitled for bail on the ground of parity. It is with these averments, prayer has been made to admit the applicant on bail.

Ld. APP for State has contended that the present application is not maintainable as it is the second bail application moved on behalf of the applicant/accused, without establishing any changed circumstance after the dismissal of the earlier application. It is also contended that the applicant is a habitual offender and if he is admitted on bail, there exists a strong likelihood that he will indulge himself in the offences of similar nature. It is with these averments, the prosecution has sought dismissal of the present application.


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At the very outset, it is pertinent to mention here that the present application is the **second bail application** moved on behalf of the applicant, seeking his enlargement on bail. It may be added here that vide orders dated 22.08.2020, the earlier bail application of the accused/applicant, was dismissed by this court. It has been averred on behalf of applicant that since the accused is undergoing judicial custody since long and also that the co-accused has been granted bail by Ld. Court of Sessions, therefore, it tantamount to changed circumstances, entitling the applicant for grant of bail. However, in this regard it is pertinent to mention here that even though there is no bar in entertaining successive bail applications, by consideration before the same court. There also lies not time-limit, set for moving the court for bail, after the first or previous bail application, is rejected. But, it should be only when some new facts and circumstances have been developed, after rejection of previous bail application, then only the successive bail application should be considered on merits. In Parvinder Singh vs. State of Punjab 2003 12 SCC 528, the Hon'ble apex court held that though an accused has right to move successive bail applications for grant of bail, but the court entertaining such subsequent application, has a duty to consider the reasons and grounds on which earlier bail applications were rejected. In such cases, the court has a duty to record what are the fresh grounds which persuade it to take a view, different from one taken in earlier application. Similarly, in State of Madhya Pradesh versus Kajad AIR 2001 SC 3517, it was held that it is true that successive bail application are permissible under the changed circumstances, but without the change in circumstances, the second bail application would be deemed, seeking review of earlier judgment, which is not permissible under the criminal law.

Now, coming to the contentions advanced on behalf of the accused/applicant, qua changed circumstances justifying maintainability of present application. As per the version of the Ld. Counsel for applicant, since the accused is undergoing judicial custody since long and that the other co-accused has been bailed out by Ld. Court of Sessions, hence in view of these changed circumstances, the present bail application can well be entertained by this court. In this regard, it is pertinent to add that the authorities cited above clearly suggests that the successive bail applications are maintainable before the same court only when, circumstance which led to the dismissal of earlier application, is shown to have been changed. Mere, branding a circumstance or glossing it with a term 'changed circumstance', does not, fall under the purview of circumstance, which leads to maintainability of successive bail application unless the same has direct bearing on the grounds upon which the decision on earlier application was made. If, without establishing the said changed circumstance, the court ventures itself into entertaining the successive bail applications, it virtually tantamount to review of its own order, which certainly is not contemplated under the scheme of Cr.P.C. As far as the assertions of Ld. Counsel for applicant are concerned, pertinently, the perusal of order dated 22.08.2020 is suggestive of the fact that the first bail application as moved on behalf of the applicant/accused Lalit @ Aniket was dismissed by this court primarily on two counts which are, first, the previous bad antecedents of the applicant, justifying the apprehensions of the prosecution regarding the possibility of commission of offences of like nature by the accused/applicant and secondly, on the count

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that there existed a likelihood that if admitted on bail, the applicant will dissuade the prosecution witnesses. Pertinently, on establishing the fact by prosecution that the applicant has dented antecedents, the earlier bail application of accused/applicant was dismissed. The fact that, the applicant has previous dented criminal antecedents, remains undisputed and as such nothing Cogent has been placed on record on behalf of the accused/applicant vanishing the apprehension of the prosecution that if admitted on bail, the accused will not indulge himself in offences of similar nature or will not dissuade the material prosecution witnesses, I am of the view that the present application as moved on behalf of applicant lacks any maintainability.

In the light of my discussion made above, and also placing on reliance on the authorities cited above, since the earlier bail application of the applicant was dismissed on the ground of existence of likelihood of commission of offences of similar nature by the applicant, in case of his release and also upon appreciating possibility of his dissuading the prosecution witnesses, therefore merely on account of prolonged judicial custody of accused or that the co-accused has been granted bail by Ld. Court of Sessions, the prayer of the applicant cannot be accepted. In these circumstances, the application in hand deserves dismissal and as such the present application is hereby dismissed.

The application is accordingly disposed off.

Scanned copy of this order be sent to the Ld. Counsel for applicant through email. One copy be also sent to concerned Jail Superintendent through all permissible modes including email at daksection.tihar@gov.in , for necessary information and compliance.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.


(RISHABH KAPOOR)
MM-03 (Central), THC, Delhi
Metropolitan Magistrate 03 (Central)
26.09.2020
Tis Hazari, Delhi

State Vs. Vishnu (through Applicant Meenakshi)

FIR No. 153/2020

u/s 279/338 IPC

PS Rajinder Nagar

ऋषभ कपूर
RISHABH KAPOOR
महानगर दण्डाधिकारी-
Metropolitan Magistrate-03
केन्द्रीय जिला कमरा नं. 150
Central District, Room No. 150
तीस हजारी न्यायालय, दिल्ली
Tis Hazari Courts, Delhi

26.09.2020

Matter heard through VCC over Cisco Webex.

Case is taken up in view of Circular No. 23456-23616 DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30.08.2020 issued by Ld. District & Sessions Judge (HQ).

Present: Sh. Vakil Ahmad Ld. APP for State

Sh. Mukesh Kumar Ld. Counsel for applicant

IO/SI Vinod Kumar

In furtherance of directions issued on 25.09.2020, Scanned copy of detailed reply has been sent by IO/SI Vinod Kumar through the email id of the court. Copy of same is supplied to Counsel for applicant, electronically.

Heard. Record perused.

This order shall dispose off the application for release of **vehicle no. DL-8SCM-4883** on Superdari, moved on behalf of **applicant Meenakshi**.

Reply of IO/SI Vinod Kumar, is perused, wherein it is stated that the present case FIR u/s 279/338 IPC was registered upon complaint made by Ct. Kishor Kumar alleging that he was hit by scooty rider Vishnu, at Shiv Mandir near Sir Ganga Ram Road. IO has reported that applicant Meenakshi, is the registered owner of the vehicle in question. It is further reported that vehicle in question is not having a valid insurance. Further, in the reply as received from the IO, he has raised no objection if the vehicle aforesaid is released on superdari in favour of the registered owner.

At this juncture, as it emerges that vehicle in question is an uninsured vehicle having involved in an accident case involving the bodily injury to victim namely Ct. Kishor Kumar, therefore

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provisions of Rule 6 of Delhi Motor Accidents Claim Tribunals Rules, 2008 comes into play. The relevant rule is reproduced herein below for a ready reference,

6. *Prohibition against release of motor vehicle involved in accident.*-(1) No court shall release a motor vehicle involved in an accident resulting in death or bodily injury or damage to property, when such vehicle is not covered by the policy of insurance against third party risks taken in the name of registered owner or when the registered owner fails to furnish copy of such insurance policy despite demand by investigating police officer, unless and until the registered owner furnishes sufficient security to the satisfaction of the court to pay compensation that may be awarded in a claim case arising out of such accident.

(2) Where the motor vehicle is not covered by a policy of insurance against third party risks, or when registered owner of the motor vehicle fails to furnish copy of such policy in circumstance mentioned in sub-rule (1), the motor vehicle shall be sold off in public auction by the magistrate having jurisdiction over the area where accident occurred, on expiry of three months of the vehicle being taken in possession by the investigating police officer, and proceeds thereof shall be deposited with the Claims Tribunal having jurisdiction over the area in question, within fifteen days for purpose of satisfying the compensation that may have been awarded, or may be awarded in a claim case arising out of such accident.

In this context, the observations made by Honble High Court of Delhi in case titled **as Rajesh Tyagi & Ors. vs Jaibir Singh & Ors. FAO No. 842/200 decided on 8th June, 2009**, becomes pertinent to be mentioned. It was observed that;

*The motor vehicles involved in the accident shall not be released on superdari unless the owner and driver have appeared before the Court of MACT and have furnished all the relevant documents i.e. driving license, registration cover, insurance policy, fitness, permit etc. of the offending vehicle before release of the offending vehicle to the owner on superdari. **If the vehicle is not insured, the vehicle shall be released on superdari only after the owner furnishes sufficient security to the satisfaction of the Court to pay the compensation or at least equal to the value of the vehicle.***

Now advertent to the merits of present application. On perusal of the reply of IO, the applicant Meenakshi prima facie appears to be entitled for the custody of the vehicle in question. Further, the vehicle in question is also not required for purposes of investigation. Accordingly the prayer qua release of same, deserves to be accepted.

In these circumstances and also keeping in view the directions of **Hon'ble High Court of Delhi** in matter of "**Manjit Singh Vs. State**" in Crl. M.C. No.4485/2013 dated 10.09.2014, the aforesaid vehicle be released to the applicant / registered owner subject to the following conditions:-


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1. Applicant is directed to furnish security in the form of FDR amounting Rs. 50,000 undertaking her liability to pay amount of compensation for third party risks, if any awarded by the Ld. MACT, to the satisfaction of this court.

2. Thereafter, The applicant shall furnish indemnity bonds as per the value of the vehicle, to the satisfaction of the concerned SHO/ IO concerned.

2. IO shall verify all the documents of vehicle prior to its release and release the same only upon verification thereof.

3. IO shall prepare detailed Panchnama mentioning the colour, Engine number, Chasis number, ownership and other necessary details of the vehicle.

4. IO shall take the colour photographs of the vehicle from different angles and also of the engine number and the chasis number of the vehicle.

5. The photographs should be attested and counter signed by the complainant and applicant/accused.

Requisite Security is not furnished. The application be put up as and when applicant furnishes the security along with undertaking, as directed today.

Scanned copy of this order be sent to Counsel for applicant and to IO/SHO concerned through email, for compliance.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.



(RISHABH KAPOOR)
MM-03 (Central), THC, Delhi

26.09.2020
Metropolitan Magistrate-03 (Central)
Tis Hazari, Delhi

CIS No. 294297/16
State Vs. Lakhansingh
FIR No. 301/13
PS Rajender Nagar

25.09.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of circular no. 23456-23616 DJ(HQ)/ Covid-19 Lockdown/Physical Courts Roster/2020 dt. 30.08.2020 directions issued by Ld. District & Sessions Judge (HQ).

Present: Ld. APP for the State.

Accused stated to be in JC.

The present case has been listed for 01.10.2020 in view of enbloc dates given due to Covid-19 Pandemic.

The accused was declared as Proclaimed person vide order dt. 07.03.2020 passed by this Court. Case file is taken up today as the perusal of record is revealing that the accused was arrested vide DD No.52 dt. 21.09.2020 PS Pahar Ganj and produce before concerned Duty MM on 21.09.2020.

Perusal of order dt. 21.09.2020 passed by Ms. Deepika Thakran, Ld. Duty MM would reveal that accused was sent to JC and was directed to be produced today.

However, the accused is not produced today.

Accordingly, concerned Jail Superintendent is directed to produce the accused through VC over Cisco Webex on 01.10.2020.

Put up for appearance of accused and FP as per law on date fixed.

Copy of this order be sent to concerned Jail Superintendent through email, for compliance.

(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
25.09.2020