

FIR No.98/2018
PS Sadar Bazar
U/s 302/307/34 IPC and 25/54/59 Arms Act
State Vs. Vikas @ Sanju & Ors.

15/06/2021

File taken up today on the application u/s. 439 Cr.P.C. for grant of interim bail for the period of 45 days, filed on behalf of accused Ajay @ Ganja.

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State.
None has joined the proceedings through V.C. on behalf of the accused Ajay @ Ganja.

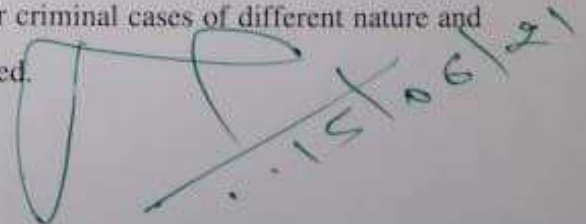
Ahlmad is absent.

Arguments have already been heard on the aforesaid interim bail application of the accused Ajay @ Ganja.

By way of present order, this Court shall disposed of interim bail application of the accused Ajay @ Ganja.

During the course of arguments, it was submitted by counsel for the accused Ajay @ Ganja that the accused has been falsely implicated in the present case. It was further submitted that accused has filed the present interim bail application on medical grounds of wife of the accused. It was further submitted that wife of the accused is suffering from stone disease and doctor has advised her for surgery and surgery is planned for 20/06/2021 and there is no male member in the family to look after wife of the accused and interim bail for the period of 45 days be granted to the accused to look after his wife. It was further submitted that the accused shall be abide by all terms and conditions, if the interim bail is granted to the accused and accused shall surrender after the interim bail period.

During the course of arguments, it was submitted by Addl. P.P. for the State that the allegations against the accused are serious in nature and he can abscond, if the interim bail is granted to him. It was further submitted that concerned doctor has given in writing that the wife of the accused is having gall bladder stone and it is not an emergency surgery and surgery is planned for 20/06/2021 and she may require attendant after surgery. It was further submitted that accused is having his mother to look after the wife of the accused. It was further submitted that accused is habitual offender and he is previously involved in nine other criminal cases of different nature and the present interim bail application of the accused be dismissed.


15/06/21

FIR No.77/2019
PS I.P. Estate
U/s 302/307/120-B/34 IPC & 27 Arms Act
State Vs. Mohd. Arif @ Kale

15/06/2021

File taken up today on the application u/s. 439 Cr.P.C. of accused Mohd. Arif @ Kale for grant of interim bail.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).
IO/ Inspector Arvind Pratap Singh is present (through V.C.).
Sh. Sunil Nair, Ld. Counsel for the accused Mohd. Arif @ Kale (through V.C.).
Ahlmad is absent.

Reply to the aforesaid bail application of the accused is already stated to be received.

It is submitted by counsel for the accused that accused has filed the present bail application only on the medical ground of son of the accused.

SHO/IO is directed to verify medical condition/ illness of son of the accused and availability of the family members of the accused and also to verify medical documents of son of the accused and file appropriate report on the next date of hearing.

Report regarding medical condition of son of the accused be also verified from the concerned doctor.

At the request of counsel for the accused, the aforesaid bail application of the accused be put up for consideration on 19/06/2021. Date of 19/06/2021 is given at the specific request and convenience of counsel for the accused.

IO is bound down for the next date of hearing i.e. 19/06/2021.

Order be uploaded on the website of the Delhi District Court.

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
15/06/2021(G)

State Vs. Ajay Kumar Jha
FIR No.221/2015
PS Karol Bagh

15/06/2021

File taken up today on the interim bail application u/s. 439 Cr.P.C. of accused Ajay Kumar Jha as per the H.P.C. guidelines.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).
Mr. Mohd. Tahir, Ld. Counsel for the accused Ajay Kumar Jha (through V.C.).

Ahlmad is absent.

Issue notice of the present bail application to the State. Addl. P.P. for the State accepts the notice of the aforesaid bail application.

Issue notice to the SHO/ IO to file reply to the aforesaid bail application of the accused including the report regarding previous involvement of the accused and list of all pending cases against the accused on the next date of hearing.

Issue notice to the concerned Jail Superintendent to file the jail conduct report of the accused, period of custody of the accused, nominal roll of the accused and list of all pending cases against the accused, on the next date of hearing.

At the request of counsel for the accused, the aforesaid bail application of the accused be put up for consideration on 25/06/2021. Date of 25/06/2021 is given at the specific request and convenience of counsel for the accused.

Order be uploaded on the website of the Delhi District Court.

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
15/06/2021(G)

FIR No. 224/2019
PS Darya Ganj
U/s 302 IPC
State Vs. Tek Raj Saud

15/06/20

File taken up today on the interim bail application u/s. 439 Cr.PC of accused Tek Raj Saud.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).
Ms. Nanda Chhetri, Ld. Counsel for the accused Tek Raj Saud (through V.C.).

Ahmad is absent.

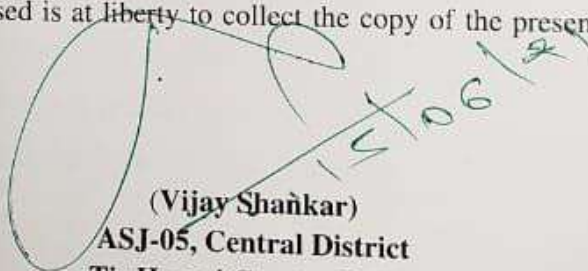
Reply to the aforesaid bail application of the accused stated to be received.

It is submitted by counsel for the accused that she may be permitted to withdraw the present interim bail application of the accused with liberty to file fresh bail application of the accused. Heard. Request is allowed.

At the request of counsel for the accused, the present interim bail application of the accused Tek Raj Saud is dismissed as withdrawn. Accused is at liberty to file fresh bail application subject to just exceptions.

Order be uploaded on the website of the Delhi District Court.

Ld. Counsel for the accused is at liberty to collect the copy of the present order through electronic mode.


(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
15/06/2021(G)

State Vs. Aftab Ahmad @ Munna
FIR No.244/2020
PS Kamla Market
U/s 302/34 IPC

15/06/2021

File taken up today on the interim bail application u/s. 439 Cr.PC for the period of 30 days filed on behalf of accused Aftab Ahmad @ Munna.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).
Sh. Anil Kumar Kamboj, Ld. Legal Aid Counsel for the accused Aftab Ahmad @ Munna (through V.C.).

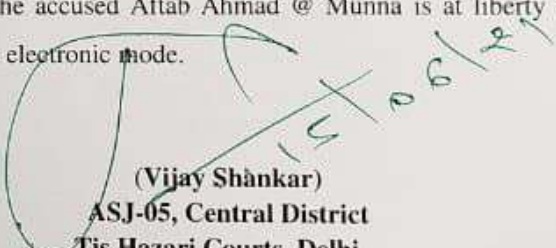
Ahmad is absent.

It is submitted by legal aid counsel for the accused Aftab Ahmad @ Munna that the private counsel has already filed the interim bail application of the accused and the same is also fixed for today. It is further submitted that interim bail application of the accused was filed by private counsel prior to filing of the present interim bail application and in view of the same, he may be permitted to withdraw the present interim bail application of the accused. Heard. Request is allowed.

At the request of legal aid counsel for the accused, the present interim bail application of the accused Aftab Ahmad @ Munna is dismissed as withdrawn.

Order be uploaded on the website of the Delhi District Court.

Ld. Legal Aid Counsel for the accused Aftab Ahmad @ Munna is at liberty to collect the copy of the present order through electronic mode.


(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
15/06/2021(G)

FIR No.112/2019
PS Subzi Mandi
U/s 302/201 IPC
State Vs. Santosh Kumar Khushwaha

15/06/2021

File taken up today on the application u/s. 439 Cr.P.C. of accused Santosh Kumar Khushwaha for grant of interim bail.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).
IO/ Inspector Rajesh Kumar is present (through V.C.).
Ms. Ekta, Ld. Counsel for the accused Santosh Kumar Khushwaha (through V.C.).

Ahlmad is absent.

Reply to the aforesaid bail application of the accused stated to be received from the IO and the concerned Deputy Superintendent.

Counsel for the accused seeks time for clarifications on the maintainability of the present bail application of the accused as well as status of the pending case against the accused. Heard. Request is allowed.

At the request of counsel for the accused, the aforesaid bail application of the accused be put up for clarifications/ consideration on 22/06/2021. Date of 22/06/2021 is given at the specific request and convenience of counsel for the accused.

IO is bound down for the next date of hearing i.e. 22/06/2021.

Order be uploaded on the website of the Delhi District Court.

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
15/06/2021(G)

FIR No.263/2020
PS Prasad Nagar
U/s 364-A/120-B/34 IPC
State Vs. Naveen Singh

15/06/2021

File taken up today on the application u/s. 439 Cr.P.C. of accused Naveen Singh for grant of interim bail for a period of 90 days.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.),
IO has not joined the proceedings through V.C.
Sh. Inderpreet Singh, Ld. Counsel for the accused Naveen Singh (through V.C.).

Ahmad is absent.

Report received from the IO.

Report not received from the concerned Jail Superintendent.

Issue fresh notice to the concerned Jail/ Medical Superintendent to file appropriate report regarding medical condition/ illness/ treatment of the accused and as to whether immediate hospitalization of the accused is required or not, on the next date of hearing.

At the request of counsel for the accused, the aforesaid bail application of the accused be put up for consideration on 22/06/2021. Date of 22/06/2021 is given at the specific request and convenience of counsel for the accused.

Issue notice to the IO for the next date of hearing 22/06/2021.

Order be uploaded on the website of the Delhi District Court.

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
15/06/2021(G)

FIR No. 567/2016

PS Burari

**U/s 420/468/471 IPC r/w Section 14 Foreigners Act r/w
Section 12 of the Passport Act**

State Vs. Obeifoka Friday Okeke @ Obiora Tony Okeke

15/06/2021

**Present bail application u/s 439 Cr.P.C. has been filed on behalf of
accused Obeifoka Friday Okeke @ Obiora Tony Okeke for grant of regular
bail.**

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Addl. P.P. for the State (through V.C.)
IO/SI Suresh Bhatia is present (through V.C.)
Sh. Anoop Kumar Gupta, Ld. Counsel for the accused Obeifoka
Friday Okeke @ Obiora Tony Okeke (through V.C.)

Ahlmad is absent.

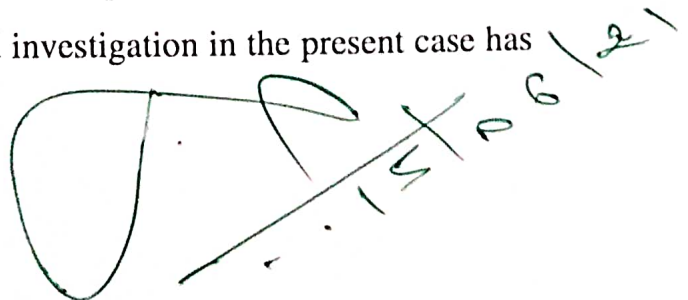
TCR is stated to be received.

Reply filed by the IO.

By way of present order, this Court shall disposed of bail application
u/s. 439 Cr.P.C. of the accused Obeifoka Friday Okeke @ Obiora Tony Okeke.

Arguments heard on the aforesaid bail application of accused
Obeifoka Friday Okeke @ Obiora Tony Okeke. Perused the material available on
record.

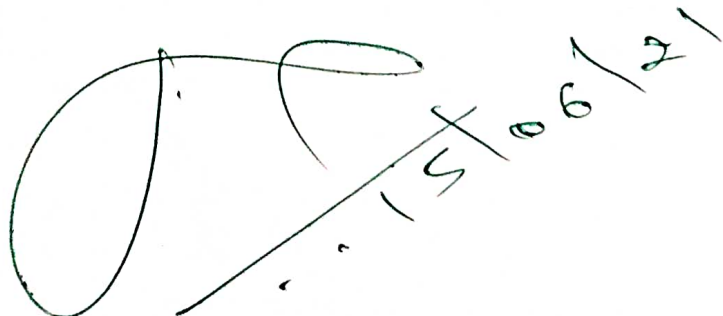
During the course of arguments on the aforesaid bail application, it
was submitted by counsel for the accused that bail application of the accused was
dismissed by the concerned Ld. MM vide order dated 23/04/2021 and the present
bail application is the first bail application of the accused before Sessions Court and
no other bail application is pending before any other Court. It was further submitted
that the accused has been falsely implicated in the present case and there is no
incriminating evidence against the accused and investigation in the present case has

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already been completed and the accused is no more required for the purpose of further investigation as the charge-sheet has already been filed in the present case and same is pending before concerned Ld. MM. It was further submitted that in the present case, the charge has already been framed and the matter is at the stage of prosecution evidence. It was further submitted that earlier, the bail application of the accused was allowed vide order dated 09/02/2017 and due to jaundice, he could not appear before the Ld. Concerned Court and NBW was ordered to be issued against the accused. It was further submitted that accused is in J/C since 04/09/2019 and no useful purpose will be served by keeping the accused behind the bars and bail be granted to accused and accused shall be abide by all terms and conditions imposed by the court.

During the course of arguments, it was submitted by Addl. P.P. for the State that the allegations against the accused are serious in nature and accused can abscond, if the bail is granted to the accused. It was further submitted that apart from the other Sections as mentioned in the charge, section 467 IPC is also attracted in the present case. It was further submitted that the accused was declared proclaimed offender in the present case and thereafter, he was arrested. It was further submitted that accused is not having any permanent address in India. It was further submitted that after declaring the proclaimed offender in the present case, the accused has committed the offence and case bearing no. VIII/34/DZU/2019 under NDPS Act was got registered and accused was arrested in the said case. It was further submitted that there is sufficient incriminating material available on record against the accused and bail application of accused be dismissed.

It was held by the Hon'ble Supreme Court of India in case titled as **“Virupakshappa Gouda and Anr. Vs. State of Karnataka and Anr.”** {(2017) 5 SCC 406} that :

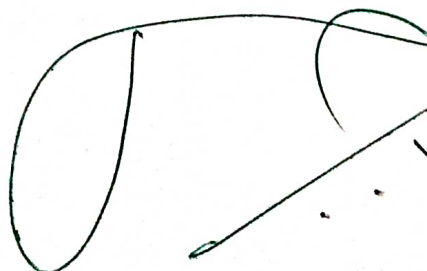
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"15. The court has to keep in mind what has been stated in **Chaman Lal v. State of U.P.** The requisite factors are: (i) the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence; (ii) reasonable apprehension of tampering with the witness or apprehension of threat to the complainant; and (iii) prima facie satisfaction of the court in support of the charge. In **Prasanta Kumar Sarkar v. Ashis Chatterjee**, it has been opined that while exercising the power for grant of bail, the court has to keep in mind certain circumstances and factors. We may usefully reproduce the said passage:

"9....among other circumstances, the factors which are to be borne in mind while considering an application for bail are:

- (i) whether there is any prima facie or reasonable ground to be believe that the accused had committed the offence.
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of course, of justice being thwarted by grant of bail."

16. In **CBI v. V. Vijay Sai Reddy**, the Court had reiterated the principle by observing thus:- " 34. While granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the

 15/06/21

accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."

17. From the aforesaid principles, it is quite clear that an order of bail cannot be granted in an arbitrary or fanciful manner. In this context, we may, with profit, reproduce a passage from *Neeru Yadav v. State of U.P.*, wherein the Court setting aside an order granting bail observed:

"16. The issue that is presented before us is whether this Court can annul the order passed by the High Court and curtail the liberty of the second respondent? We are not oblivious of the fact that the liberty is a priceless treasure for a human being. It is founded on the bedrock of constitutional right and accentuated further on human rights principle. It is basically a natural right. In fact, some regard it as the grammar of life. No one would like to lose his liberty or barter it for all the wealth of the world. People from centuries have fought for liberty, for absence of liberty causes sense of emptiness. The sanctity of liberty is the fulcrum of any civilized society. It is a cardinal value on which the civilisation rests. It cannot be allowed to be paralysed and immobilized. Deprivation of liberty of a person has enormous impact on his mind as well as body. A democratic body polity which is wedded to rule of law, anxiously guards liberty. But, a pregnant and significant one, 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 collective and to the societal order. Accent on individual liberty cannot be pyramided to that extent which would bring chaos and anarchy to a society. A society expects responsibility and accountability from its members, and it desires that the citizens should obey the law, respecting it as a cherished social norm. No individual can make an attempt to create a concavity in the stem of social stream. It is impermissible. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly things which the society disapproves, the legal consequences are bound to follow. At that stage, the Court has a duty. It cannot abandon its sacrosanct obligation and pass an order at its own whim or

15/06/21

caprice. It has to be guided by the established parameters of law."

It was held by the Hon'ble Supreme Court of India in case titled as **"Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and Anr."** {2004 Cri. L.J. 1796 (1)} that :

"11. The law in regard to grant or refusal of bail is very well settled. The Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the Court granting bail to consider among other circumstances, the following factors also before granting bail; they are,

- (a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence;*
- (b) Reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;*
- (c) Prima facie satisfaction of the Court in support of the charge.*

12. In regard to cases where earlier bail applications have been rejected there is a further onus on the Court to consider the subsequent application for grant of bail by noticing the grounds on which earlier bail applications have been rejected and after such consideration if the Court is of the opinion that bail has to be granted then the said Court will have to give specific reasons why in spite of such earlier rejection the subsequent application for bail should be granted.

14. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging

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the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail.

20. Before concluding, we must note though an accused has a right to make successive applications for grant of bail the Court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the Court also has a duty to record what are the fresh grounds which persuade it to take a view different from the one taken in the earlier applications.....”

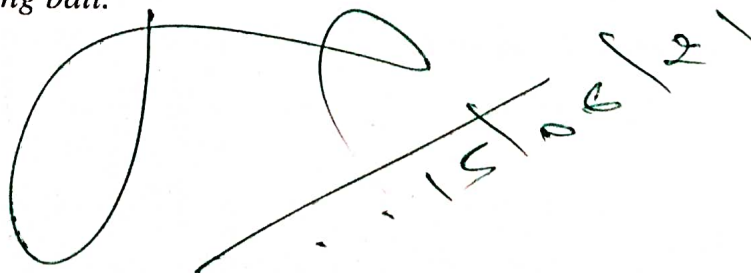
It was held by the Hon’ble Supreme Court of India in case titled as **“Satish Jaggi Vs. State of Chhatisgarh and Ors.”** {AIR 2007 SC (Supp) 256} that :

“5. It is well settled law that in granting or non-granting of bail in non-bailable offence, the primary consideration is the nature and gravity of the offence.....

12.At the stage of granting of bail, the court can only go into the question of the prima-facie case established for granting bail. It cannot go into the question of credibility and reliability of the witnesses put up by the prosecution. The question of credibility and reliability of prosecution witnesses can only be tested during the trial.”

It was held by the Hon’ble Supreme Court of India in case titled as **“Gurucharan Singh & Others Vs. State”** {AIR 1978 SC 179 (1)} that :

“29. We may repeat the two paramount considerations, viz likelihood of the accused fleeing from justice and his tampering with prosecution evidence relate to ensuring a fair trial of the case in a court of justice. It is essential that due and proper weight should be bestowed on these two factors apart from others. There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or cancelling bail.”



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In the present case, charge for the offences u/s 420/468/471 IPC r/w Section 14 Foreigners Act r/w Section 12 of the Passport Act was framed against the accused.

It is pertinent to mention here that vide order dated 09/02/2017, bail application of the accused was allowed. After 17/11/2017, the accused stopped appearing before the concerned Court and bailable warrant, NBW and process u/s 82 Cr.P.C were ordered to be issued against the accused and vide order dated 18/09/2018, accused was declared proclaimed offender in the present case. Vide order dated 18/09/2018, FIR u/s 174-A was also directed to be registered against the accused.

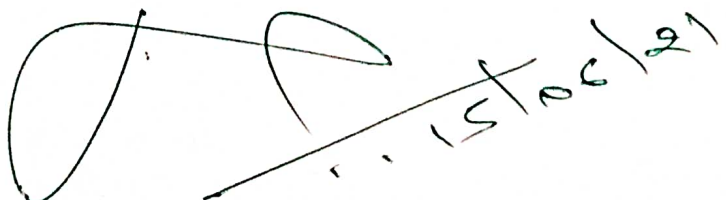
During the course of arguments, it was submitted by counsel for the accused that accused could not appear before Ld. MM as accused was suffering from jaundice. The counsel for the accused has not filed any document on record to show that during the relevant period, accused was suffering from jaundice.

After declaring the proclaimed offender, the accused stated to be have committed the offence and for which case bearing no. VIII/34/DZU/2019 under NDPS Act was got registered and accused was arrested in the said case.

The accused is foreign national and he is not having any permanent address in India.

The contentions of counsel for the accused that the accused has been falsely implicated in the present case and there is no incriminating evidence against him is not tenable at this stage as it is well settled law that at the stage of considering bail, it would not be proper for the Court to express any opinion on the merits or demerits of the prosecution case as well as defence.

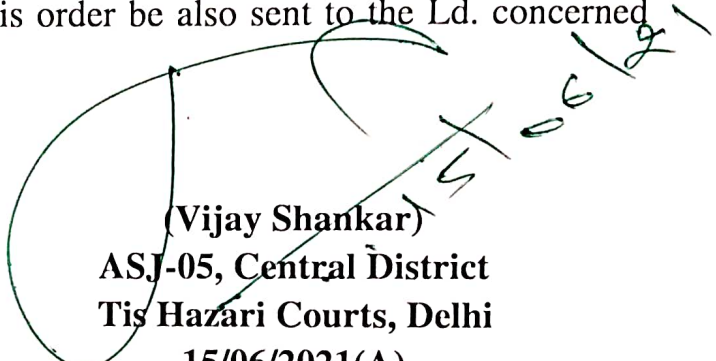
Keeping in view the facts and circumstances of the case, gravity of offence and nature of serious allegations levelled against the accused, this Court is of the considered opinion that no ground for regular bail of the accused Obeifok

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Friday Okeke @ Obiora Tony Okeke is made out at this stage. Accordingly, the present application for regular bail of the accused Obeifoka Friday Okeke @ Obiora Tony Okeke is dismissed.

A copy of this order be sent to the concerned Jail Superintendent through E-mail for information. Order be uploaded on the website of the Delhi District Court. Ld. Counsel for the accused is at liberty to collect the copy of present order through electronic mode.

TCR along with copy of this order be also sent to the Ld. concerned
MM.


(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
15/06/2021(A)

FIR No. 567/2016

PS Burari

U/s 420/468/471 IPC r/w Section 14 Foreigners Act r/w

Section 12 of the Passport Act

State Vs. Obeifoka Friday Okeke @ Obiora Tony Okeke

15/06/2021

Present bail application u/s 439 Cr.P.C. has been filed on behalf of accused Obeifoka Friday Okeke @ Obiora Tony Okeke for grant of regular bail.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Addl. P.P. for the State (through V.C.)
IO/SI Suresh Bhatia is present (through V.C.)
Sh. Anoop Kumar Gupta, Ld. Counsel for the accused Obeifoka Friday Okeke @ Obiora Tony Okeke (through V.C.)

Ahlmad is absent.

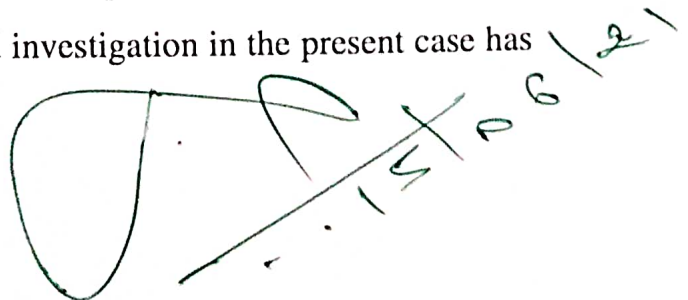
TCR is stated to be received.

Reply filed by the IO.

By way of present order, this Court shall disposed of bail application u/s. 439 Cr.P.C. of the accused Obeifoka Friday Okeke @ Obiora Tony Okeke.

Arguments heard on the aforesaid bail application of accused Obeifoka Friday Okeke @ Obiora Tony Okeke. Perused the material available on record.

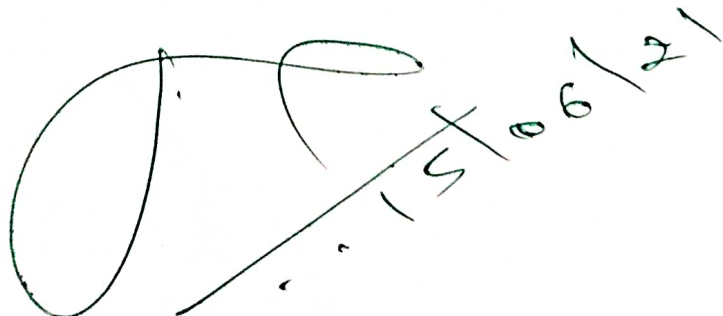
During the course of arguments on the aforesaid bail application, it was submitted by counsel for the accused that bail application of the accused was dismissed by the concerned Ld. MM vide order dated 23/04/2021 and the present bail application is the first bail application of the accused before Sessions Court and no other bail application is pending before any other Court. It was further submitted that the accused has been falsely implicated in the present case and there is no incriminating evidence against the accused and investigation in the present case has

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already been completed and the accused is no more required for the purpose of further investigation as the charge-sheet has already been filed in the present case and same is pending before concerned Ld. MM. It was further submitted that in the present case, the charge has already been framed and the matter is at the stage of prosecution evidence. It was further submitted that earlier, the bail application of the accused was allowed vide order dated 09/02/2017 and due to jaundice, he could not appear before the Ld. Concerned Court and NBW was ordered to be issued against the accused. It was further submitted that accused is in J/C since 04/09/2019 and no useful purpose will be served by keeping the accused behind the bars and bail be granted to accused and accused shall be abide by all terms and conditions imposed by the court.

During the course of arguments, it was submitted by Addl. P.P. for the State that the allegations against the accused are serious in nature and accused can abscond, if the bail is granted to the accused. It was further submitted that apart from the other Sections as mentioned in the charge, section 467 IPC is also attracted in the present case. It was further submitted that the accused was declared proclaimed offender in the present case and thereafter, he was arrested. It was further submitted that accused is not having any permanent address in India. It was further submitted that after declaring the proclaimed offender in the present case, the accused has committed the offence and case bearing no. VIII/34/DZU/2019 under NDPS Act was got registered and accused was arrested in the said case. It was further submitted that there is sufficient incriminating material available on record against the accused and bail application of accused be dismissed.

It was held by the Hon'ble Supreme Court of India in case titled as **“Virupakshappa Gouda and Anr. Vs. State of Karnataka and Anr.”** {(2017) 5 SCC 406} that :

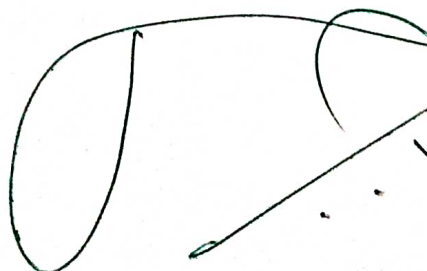
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"15. The court has to keep in mind what has been stated in **Chaman Lal v. State of U.P.** The requisite factors are: (i) the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence; (ii) reasonable apprehension of tampering with the witness or apprehension of threat to the complainant; and (iii) prima facie satisfaction of the court in support of the charge. In **Prasanta Kumar Sarkar v. Ashis Chatterjee**, it has been opined that while exercising the power for grant of bail, the court has to keep in mind certain circumstances and factors. We may usefully reproduce the said passage:

"9....among other circumstances, the factors which are to be borne in mind while considering an application for bail are:

- (i) whether there is any prima facie or reasonable ground to be believe that the accused had committed the offence.
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of course, of justice being thwarted by grant of bail."

16. In **CBI v. V. Vijay Sai Reddy**, the Court had reiterated the principle by observing thus:- " 34. While granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the

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accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."

17. From the aforesaid principles, it is quite clear that an order of bail cannot be granted in an arbitrary or fanciful manner. In this context, we may, with profit, reproduce a passage from *Neeru Yadav v. State of U.P.*, wherein the Court setting aside an order granting bail observed:

"16. The issue that is presented before us is whether this Court can annul the order passed by the High Court and curtail the liberty of the second respondent? We are not oblivious of the fact that the liberty is a priceless treasure for a human being. It is founded on the bedrock of constitutional right and accentuated further on human rights principle. It is basically a natural right. In fact, some regard it as the grammar of life. No one would like to lose his liberty or barter it for all the wealth of the world. People from centuries have fought for liberty, for absence of liberty causes sense of emptiness. The sanctity of liberty is the fulcrum of any civilized society. It is a cardinal value on which the civilisation rests. It cannot be allowed to be paralysed and immobilized. Deprivation of liberty of a person has enormous impact on his mind as well as body. A democratic body polity which is wedded to rule of law, anxiously guards liberty. But, a pregnant and significant one, 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 collective and to the societal order. Accent on individual liberty cannot be pyramided to that extent which would bring chaos and anarchy to a society. A society expects responsibility and accountability from its members, and it desires that the citizens should obey the law, respecting it as a cherished social norm. No individual can make an attempt to create a concavity in the stem of social stream. It is impermissible. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly things which the society disapproves, the legal consequences are bound to follow. At that stage, the Court has a duty. It cannot abandon its sacrosanct obligation and pass an order at its own whim or

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caprice. It has to be guided by the established parameters of law."

It was held by the Hon'ble Supreme Court of India in case titled as **"Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and Anr."** {2004 Cri. L.J. 1796 (1)} that :

"11. The law in regard to grant or refusal of bail is very well settled. The Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the Court granting bail to consider among other circumstances, the following factors also before granting bail; they are,

- (a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence;*
- (b) Reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;*
- (c) Prima facie satisfaction of the Court in support of the charge.*

12. In regard to cases where earlier bail applications have been rejected there is a further onus on the Court to consider the subsequent application for grant of bail by noticing the grounds on which earlier bail applications have been rejected and after such consideration if the Court is of the opinion that bail has to be granted then the said Court will have to give specific reasons why in spite of such earlier rejection the subsequent application for bail should be granted.

14. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging

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the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail.

20. Before concluding, we must note though an accused has a right to make successive applications for grant of bail the Court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the Court also has a duty to record what are the fresh grounds which persuade it to take a view different from the one taken in the earlier applications.....”

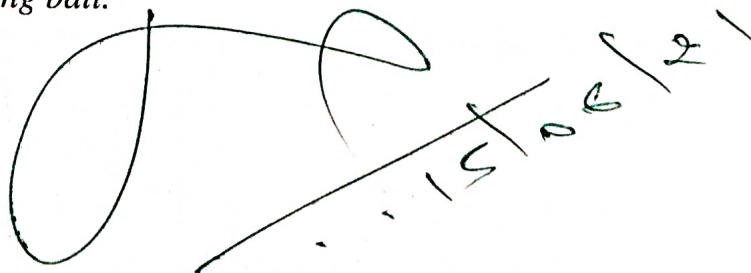
It was held by the Hon’ble Supreme Court of India in case titled as **“Satish Jaggi Vs. State of Chhatisgarh and Ors.”** {AIR 2007 SC (Supp) 256} that :

“5. It is well settled law that in granting or non-granting of bail in non-bailable offence, the primary consideration is the nature and gravity of the offence.....

12.At the stage of granting of bail, the court can only go into the question of the prima-facie case established for granting bail. It cannot go into the question of credibility and reliability of the witnesses put up by the prosecution. The question of credibility and reliability of prosecution witnesses can only be tested during the trial.”

It was held by the Hon’ble Supreme Court of India in case titled as **“Gurucharan Singh & Others Vs. State”** {AIR 1978 SC 179 (1)} that :

“29. We may repeat the two paramount considerations, viz likelihood of the accused fleeing from justice and his tampering with prosecution evidence relate to ensuring a fair trial of the case in a court of justice. It is essential that due and proper weight should be bestowed on these two factors apart from others. There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or cancelling bail.”



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In the present case, charge for the offences u/s 420/468/471 IPC r/w Section 14 Foreigners Act r/w Section 12 of the Passport Act was framed against the accused.

It is pertinent to mention here that vide order dated 09/02/2017, bail application of the accused was allowed. After 17/11/2017, the accused stopped appearing before the concerned Court and bailable warrant, NBW and process u/s 82 Cr.P.C were ordered to be issued against the accused and vide order dated 18/09/2018, accused was declared proclaimed offender in the present case. Vide order dated 18/09/2018, FIR u/s 174-A was also directed to be registered against the accused.

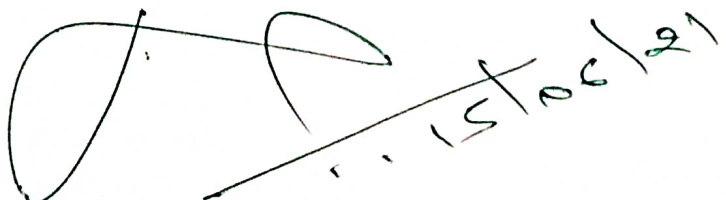
During the course of arguments, it was submitted by counsel for the accused that accused could not appear before Ld. MM as accused was suffering from jaundice. The counsel for the accused has not filed any document on record to show that during the relevant period, accused was suffering from jaundice.

After declaring the proclaimed offender, the accused stated to be have committed the offence and for which case bearing no. VIII/34/DZU/2019 under NDPS Act was got registered and accused was arrested in the said case.

The accused is foreign national and he is not having any permanent address in India.

The contentions of counsel for the accused that the accused has been falsely implicated in the present case and there is no incriminating evidence against him is not tenable at this stage as it is well settled law that at the stage of considering bail, it would not be proper for the Court to express any opinion on the merits or demerits of the prosecution case as well as defence.

Keeping in view the facts and circumstances of the case, gravity of offence and nature of serious allegations levelled against the accused, this Court is of the considered opinion that no ground for regular bail of the accused Obeifok

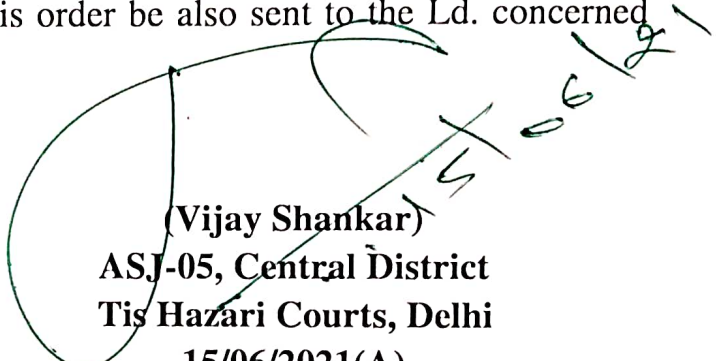


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Friday Okeke @ Obiora Tony Okeke is made out at this stage. Accordingly, the present application for regular bail of the accused Obeifoka Friday Okeke @ Obiora Tony Okeke is dismissed.

A copy of this order be sent to the concerned Jail Superintendent through E-mail for information. Order be uploaded on the website of the Delhi District Court. Ld. Counsel for the accused is at liberty to collect the copy of present order through electronic mode.

TCR along with copy of this order be also sent to the Ld. concerned
MM.


(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
15/06/2021(A)