

Bail Application No.2456/21
FIR No. Not Known
P.S. Civil Line
U/s not known
State Vs. Sumit @ Vikas Kumar

27.09.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad.

This is an application moved for accused/applicant Sumit @ Vikas Kumar under Section 438 Cr.P.C., for grant of anticipatory bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for State.
Sh. Manish Kumar, Ld. Counsel for applicant.

Report has been received from PS Civil Line under the signature of SI Pankaj Thakran wherein it has been submitted that applicant is not wanted or required in any case registered till date at PS Civil Lines. In view of the reply, present application is dismissed being infructuous.

Copy of this order be uploaded on the website.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/27.09.2021

**IN THE COURT OF SH. ARUL VARMA, ADDL. SESSIONS JUDGE/
SPECIAL JUDGE, ELECTRICITY, COURT NO. 2, CENTRAL, THC**

Bail Application No. 2306/21
FIR No. 223/21
U/s 392/411/34 IPC
P.S. Bara Hindu Rao
State Vs. Md. Zubair

27.09.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad Video Conferencing Mode.

Present application u/s 439 Cr.P.C. has been filed on behalf of accused Mohd. Zubair for grant of regular bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for State through VC.
Sh. Saurabh Tyagi, Ld. Counsel for applicant/accused.
Reply of IO has been received.
Report has not yet been received from Jail Superintendent, Tihar Jail qua the medical status of the accused.

At this juncture, Ld. Counsel for the accused has submitted that the present application be heard on merit *de hors* the medical status of the accused.

ORDER ON BAIL APPLICATION

1. Vide this order, this Court shall adjudicate upon the bail

application filed on behalf of the accused. Arguments were heard *in extenso*, the gist whereof is discussed hereunder.

2. Ld. Counsel for applicant/accused contended that applicant has been falsely implicated in the present case. Further, it was submitted that accused is in J/C since 05.08.2021, and chargesheet has already filed and accused is no more required for investigation. It was further submitted that accused is not named in the FIR, and recovery, if any, has already been effected and co-accused Imran has already been granted bail. Thus, he ought to be granted bail.
3. *Per contra*, Ld Addl. PP for the State alongwith with the IO, vehemently opposed the bail application as per law. It was submitted that recovery has been effected from the accused. Further, it was submitted that the applicant has been previously involved in one another similar case. Therefore, he should not be granted bail.
4. Before advertng to the rival contentions of the parties, the facts of the present case, as alleged by the prosecution, are hereby succinctly recapitulated: The case of the prosecution is that the present FIR was registered on the complaint of complainant Sh. Jagdish Prasad wherein he had alleged that two persons robbed him when he came back to his house from his shop situated at Teliwada, Qutub Garh Road, Delhi on 30.07.2021 at 8 :30 p.m. Therefore, the present FIR came to be registered.

5. A perusal of the record reveals that allegations of committing robbery of Rs.1000/-, Aadhar Card and other documents have been levelled against the applicant. It is matter of record that the robbed money, Aadhar card and other documents have already been recovered. Thus, recoveries have already been effected. The chargesheet has already been filed in the present matter.
6. Under these circumstances, this Court is of the considered view that no purpose would be served in keeping the accused in custody any longer. Accordingly, the accused Mohd. Zubair is admitted on bail on furnishing bail bond and surety bond of Rs. 10,000/- with one surety of like amount to the satisfaction of Ld CMM/Ld. MM/Ld. Link MM/Ld. Duty MM as the case may be, subject to the following conditions:
 - i. He shall not establish any contact with the complainant or any other witness, nor try threaten influence, intimidate etc. any witness.
 - ii. He shall not hamper the trial or investigation in any manner.
 - iii. He shall furnish his present and permanent address with supporting documents alongwith affidavit/undertaking to inform about any change qua the same, without any delay, to the IO/Court.
 - iv. He shall join the investigation/attend trial without default.
7. Needless to say, the abovementioned observations are predicated solely on the facts as alleged, and brought forth at this juncture,

and are not findings on merits, and would also have no bearing on the merits of the case. With these conditions, and observations, the bail application stands disposed off.

8. Copy of the order be uploaded on the website of the District Court.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/27.09.2021

**IN THE COURT OF SH. ARUL VARMA, ADDL. SESSIONS JUDGE/
SPECIAL JUDGE, ELECTRICITY, COURT NO. 2, CENTRAL, THC**

BAIL APPLICATION NOs. 2364/21, 2362/21 & 2363/21

FIR NO. 156/21

PS Subzi Mandi

U/s 354-B/323/354/509/451/34 IPC

State Vs Raj Kumar, Dabbu @ Rajesh Kumar & Ankit @ Abhisek

27.09.2021

Vide Order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Wazirabad and Crime Branch of Central Police District through Video Conferencing Mode.

Present: Sh. Balbir Singh, Ld. Addl. PP for the State through VC.

Sh. P.C. Jha, Ld. Counsel for applicant / accused
through VC.

Reply of IO received. TCR also received.

ORDER ON ANTICIPATORY BAIL APPLICATION

1. Vide this common order, this Court shall adjudicate upon the anticipatory bail applications filed on behalf of the accused persons namely Raj Kumar, Dabbu @ Rajesh Kumar & Ankit @ Abhisek. Arguments were heard *in extenso*, the gist whereof is discussed hereunder.

2. Ld. Counsel for applicant /accused submitted that applicants have been falsely implicated in the present case. He further submitted that applicant / accused persons have no criminal antecedents. Ld. Counsel further submitted that co-accused Akash has already been granted bail by this Court vide order dated 17.09.2021. He further submitted that charge-sheet in the present case has already been filed. Ld. Counsel for applicants further submitted that the FIR was registered on 08.04.2021, despite passage of period of eleven months, no fresh allegations have been leveled against the accused herein. It has also been contended that injuries caused to the complainant are simple in nature and thus the accused ought to be granted anticipatory bail.

3. *Per contra*, Ld Addl. PP for the State, assisted by IO, opposed the application as per law.

4. Before adverting to the rival contentions of the parties, the facts of the present case, as alleged by the prosecution, are hereby succinctly recapitulated: The prosecutrix alleged that on 22.05.2020 the alleged person Akash alongwith other persons entered in her house and misbehaved and tore her daughter's T-shirt. The alleged persons also tore books and other items used as study material, and thus the present FIR came to be registered.

5. At this juncture, it would be apposite to reproduce the following extracts of *Bhadresh Bipin Bhai Sheikh Vs. State of Gujrat, 2016 1 SCC 152* :-

“The principles for grant of anticipatory bail can be summarised as follows:-

(x) The following factors and parameters needs to be taken into consideration while dealing with anticipatory bail.

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

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

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

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

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

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

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

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

humiliation and unjustified detention of the accused;

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

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

6. In the present case, charge-sheet has ready been filed without arrest of the accused persons, and that accused/applicants Raj Kumar, Dabbu @ Rajesh Kumar & Ankit @ Abhisek had already joined the investigation. It has also been averred during the arguments that FIR has been registered belatedly after about 11 months of the complaint.

7. It is thus apparent that no purpose would be served incarcerating the accused. Accordingly, the accused persons Raj Kumar, Dabbu @ Rajesh Kumar & Ankit @ Abhisek are admitted on bail on furnishing bail bond and surety bond of Rs 20,000/- each with one surety of like amount to the satisfaction of concerned Court, subject to the following conditions:

- i. The accused shall not establish any contact with the complainant or any other witness, nor try threaten influence, intimidate etc. any witness.
- ii. The accused shall not hamper the trial or investigation in any manner.

- iii. The accused shall furnish his present and permanent address with supporting documents alongwith affidavit/undertaking to inform about ant change qua the same, without any delay, to the IO/Court.
 - iv. The accused shall attend trial without default.
8. Needless to say, the abovementioned observations are predicated solely on the facts as alleged, and brought forth at this juncture, and are not findings on merits, and would also have no bearing on the merits of the case. With these conditions, and observations, the anticipatory bail application stands disposed off. TCR be returned back to the Court concerned alongwith the copy of order.
9. Copy of the order be uploaded on the website of the District Court.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/27.09.2021

**IN THE COURT OF SH. ARUL VARMA, ADDL. SESSIONS JUDGE/
SPECIAL JUDGE, ELECTRICITY, COURT NO. 2, CENTRAL, THG**

Bail Application No. 2458/21
FIR No. 409/2021
U/s 498A/406/34 IPC
P.S. Wazirabad
State Vs. Sandeep Mishra

27.09.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad Video Conferencing Mode.

Present application u/s 438 Cr.P.C. has been filed on behalf of accused Sandeep Mishra for grant of anticipatory bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for the State.
Sh. Rakesh Kumar, Ld. Counsel for applicant through VC.
Report of IO received.

ORDER ON ANTICIPATORY BAIL APPLICATION

1. Vide this order, this Court shall adjudicate upon the anticipatory bail application filed on behalf of the accused. Arguments were heard *in extenso*, the gist whereof is discussed hereunder.
2. Ld. Counsel for applicant / accused submitted that applicant has been falsely implicated in the present FIR. He further submitted that applicant married the complainant on 01.08.2016 and their baby boy was born on 30.09.2019. He further submitted that applicant is ready to keep the custody of the child. Ld. Counsel further submitted

that the the allegations are vague in nature. Thus, it was submitted that accused ought to be granted anticipatory bail.

3. *Per contra*, Ld. Addl. PP for the State alongwith IO vehemently opposed the present anticipatory bail application as per law. It has been submitted that there are allegations of harassment and demand of dowry by the applicant.
4. Submissions heard and record perused.
5. In matters pertaining to matrimonial dispute, it would be apposite to refer to the following extract of ***Udit Raj Poonia Vs. State (Government of NCT of Delhi) 2017 (1) DLT (Cri) 805 :-***

“23. This Court is of the considered opinion that in matters of matrimonial cases, the Investigating Officer is required to first make out whether any article is to be recovered. In case, he is of the view that any article is to be recovered then he is to decide whether the custodial interrogation of any of the accused is required for the purpose of recovery of article. Without reaching to the conclusion with regard to recovery of article, whether it is stridhan article or any other article, the Investigating Officer is not to arrest the person for the recovery of the same.

24. Similarly, the bail application ought not be rejected for setting the scores between the parties.

25. As per the discussions made above, this Court view that :

****Provisions of Section 41 Cr.P.C. and the guidelines issued vide Standing Order Nos. 330/2008 and 444/2016 are mandatory in nature and must be complied with***

****The DCP/ACP shall ensure that the alleged articles are in existence and the recovery/seizure could take placed without the arrest, in other words, that arrest is the only mode in the facts and***

circumstances to effect the recovery before granting the sanction to arrest.

**Similarly, the Court while considering the bail under Section 437, 438,439 Cr.P.C. shall refused the bail in exceptional circumstances.*

** The exceptional circumstances may be assessed by the court concerned and the bail application must be decided expeditiously.*

**In the matrimonial cases bail is a rule and refusal is an exception.”*

6. A perusal of the record reveals that the complainant and the applicant were married about 5 years ago on 01.08.2016. They have a son who is 3 years old. Further, the applicant has submitted that he is still ready to keep the baby boy with him. A perusal of the record also reveals that allegations are vague in nature, and no specific instance or amounts have been mentioned. Thus, this Court does not deem it fit to allow apprehension of the applicant by the police at this juncture, so long as the applicant cooperates and joins the investigation as and when called for. Accordingly, applicant is granted anticipatory bail on the following conditions:-
- a) In the event of arrest, applicant shall be released on anticipatory bail on furnishing a personal bond in the sum of Rs. 10,000/- with one surety of the like amount to the satisfaction of the SHO/IO.
 - b) The applicant is directed not to leave the country without intimation to the IO.
 - c) The applicant shall join investigation as and when called for.

- d) The applicant is directed to give all his mobile numbers to the Investigating Officer and keep them operational at all times.
 - e) The applicant shall give his address to the IO and if he changes the address he shall intimate the same to the IO.
 - f) The applicant shall not, directly or indirectly, contact or pressurize, complainant or any other witness. In case any complaint is received from the complainant that the applicant is trying to contact him / her and trying to put pressure on him/her then the protection granted by this Court shall stand cancelled.
7. Needless to say, the abovementioned observations are predicated solely on the facts as alleged, and brought forth at this juncture, and are not findings on merits, and would also have no bearing on the merits of the case. With these conditions, and observations, the anticipatory bail application stands disposed off.
8. Copy of the order be uploaded on the website of the District Court.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/27.09.2021

**IN THE COURT OF SH. ARUL VARMA, ADDL. SESSIONS JUDGE/
SPECIAL JUDGE, ELECTRICITY, COURT NO. 2, CENTRAL, THC**

Bail Application No. 2509/21

FIR No. 000950/2021

U/s 379 IPC

P.S. Burari

State Vs. Sumit @ Sachin

27.09.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad.

Present application u/s 438 Cr.P.C. has been moved on behalf of applicant Sumit @ Sachin for grant of anticipatory bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for State.

Sh. Jagdish Diwakar & Montu, Ld. Counsel for applicant.

Let report of IO be called for 30.09.2021.

Order be uploaded on the website of the District Court.

**(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/27.09.2021**

**IN THE COURT OF SH. ARUL VARMA, ADDL. SESSIONS JUDGE/
SPECIAL JUDGE, ELECTRICITY, COURT NO. 2, CENTRAL, THC**

Bail Application No. 2508/21

FIR No. 521/2020

U/s 377 IPC

P.S. Civil Lines

State Vs. Sahil Kapoor

27.09.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad.

Present application u/s 439 Cr.P.C. has been moved on behalf of applicant Sahil Kapoor for grant of regular bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for State.

Sh. Ajay Khatana, Ld. Counsel for applicant.

Let report of IO be called for 01.10.2021.

Order be uploaded on the website of the District Court.

**(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/27.09.2021**

**IN THE COURT OF SH. ARUL VARMA, ADDL. SESSIONS JUDGE/
SPECIAL JUDGE, ELECTRICITY, COURT NO. 2, CENTRAL, THC**

Bail Application No. 2510/21

FIR No. 721/21

U/s 308/34 IPC

P.S. Burari

State Vs. Rahul

27.09.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad.

Present application u/s 438 Cr.P.C. has been moved on behalf of applicant Rahul for grant of anticipatory bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for State.

Sh. Abhishek Sonkar, Ld. Counsel for applicant.

Let report of IO be called for 01.10.2021.

Order be uploaded on the website of the District Court.

**(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/27.09.2021**

**IN THE COURT OF SH. ARUL VARMA, ADDL. SESSIONS JUDGE/
SPECIAL JUDGE, ELECTRICITY, COURT NO. 2, CENTRAL, THC**

BAIL APPLICATION NO. 4375/21
FIR NO. 683/21
PS Wazirabad
U/s 147/1048/149/323/308 IPC
State vs Sajid

27.09.2021

Vide Order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Wazirabad and Crime Branch of Central Police District through Video Conferencing Mode.

Present: Sh. Balbir Singh, Ld. Addl. PP for the State.
Sh. Harender Kumar, Ld. Counsel for applicant Sajid.
IO/ASI Ashok Kumar also present.
Reply of IO received.

ORDER ON BAIL APPLICATION

1. Vide this order, this Court shall adjudicate upon the bail application filed on behalf of the accused Sajid. Arguments were heard *in extenso*, the gist whereof is discussed hereunder.
2. Ld. Counsel for applicant / accused Sajid submitted that the present FIR has been registered on account of petty dispute between immediate neighbours. He further submitted that all the persons

involved in the melee only sustained simple injuries. Further, accused was sent to J/C on 30.08.2021. Ld. Counsel for the accused sought to put forth a plea of alibi by playing a CCTV footage of the accused, and contended that the accused was elsewhere at the time of incident. It was vehemently argued that since the matter has been settled, bail ought to be granted.

3. *Per contra*, Ld. Addl. PP for the State alongwith the IO, vehemently opposed the bail application as per law. It was submitted that 12 PCR calls were made with respect to the incident and three bags of bricks were recovered. It was also submitted that the PCR calls were made from 12:52 PM to 01:50 PM. It was submitted that injuries were caused to minor child and since investigation is on going, bail ought not to be granted.
4. Before adverting to the rival contentions of the parties, the facts of the present case, as alleged by the prosecution, are hereby succinctly recapitulated: It was alleged that on 29.08.2021 pursuant to PCR call recorded vide DD No. 33A, police officials reached Gali No. 8, Jagatpur. The statement of the Beat Constable of Jagatpur was recorded wherein he has stated that two factions had formed an unlawful assembly and entered into a skirmish with each other pursuant to which stones and bricks were hurled at each other. Injuries were caused not only to the participants therein but to others as well. Thus, the present FIR came to be registered.

5. A perusal of record reveals that peace and harmony of the society has been disrupted on account of an apparently trivial issue. However, the assailant herein, instead of diffusing the situation, gave a clarion call to other cohorts to join the melee, which resulted in a free for all situation. During the course of arguments it was brought to the fore that around 12 PCR calls were made, prima facie leading to the inference that the scuffle continued unabated for a considerable period of time. The CCTV footage of the accused as played before the Court reflects a time of 12:25 PM. This fact is of no relevance as far as the accused is concerned, in as much as the incident continued for a considerable period of time as is reflected from the last PCR call made at 01:50 PM. It is not the case of the accused that he was at a place so far, that there was no possibility of him reaching the spot at the time when the brawl was ensuing. It is not a case where only one or two pieces of stones or bricks were used, rather three bags of bricks were recovered. Both sides have suffered injuries. However, the disturbing aspect of this ruckus is that a girl of tender age suffered serious injuries on her head and doctor put stitches on her head. Investigation in the matter is ongoing.
6. Under these circumstances, taking into the account the gravity of the offence, severity of the punishment that the offence entails, the roles attributed to the accused herein and the fact that during scuffle between two parties, injuries have been caused to a minor girl, this Court is of the opinion that the accused Sajid ought not to be

granted bail at this juncture. Accordingly, the present bail applications are hereby dismissed.

7. Needless to say, the abovementioned observations are predicated solely on the facts as alleged, and brought forth at this juncture, and are not findings on merits, and would also have no bearing on the merits of the case. With these conditions, and observations, the bail applications stand disposed off.

Copy of the order be uploaded on the website of the District Court.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/27.09.2021

**IN THE COURT OF SH. ARUL VARMA, ADDL. SESSIONS JUDGE/
SPECIAL JUDGE, ELECTRICITY, COURT NO. 2, CENTRAL, THC**

BAIL APPLICATION NO. 2476/21
FIR NO. 525/21
PS Subzi Mandi
U/s 304/288/34 IPC
State vs Mohak Arora

27.09.2021

Vide Order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Wazirabad and Crime Branch of Central Police District through Video Conferencing Mode.

Present: Sh. Balbir Singh, Ld. Addl. PP for the State.
Sh. Chetan Anand, Ld. Counsel for applicant.
IO/SI Vijay Singh in person.

ORDER ON BAIL APPLICATION

1. Vide this order, this Court shall adjudicate upon the bail application under Section 439 Cr.P.C., filed on behalf of the accused/applicant Mohak Arora. Arguments heard *in extenso*, the gist whereof is discussed hereunder.

2. Ld. Counsel for the accused has moved the present bail application on behalf of applicant/ accused Mohak Arora. It has been submitted that the accused is no where responsible for the unfortunate incident that took place. To substantiate his claim, Ld. Counsel placed reliance on an article of India Today magazine dated 22.09.2021. By citing the said article, it has been contended that no one was responsible for the building collapse and that all officers and employees of North MCD have been given a clean chit. It was further submitted that no notice whatsoever was given by the appropriate authorities, to the owner of the building, to the effect that the building was in a dilapidated or dangerous condition. It was submitted that the owner is not responsible, and the blame squarely should fall on the shoulders of the contractor. Ld. Counsel has contended that at the most, a case of negligence can be made out and not one under section 304 IPC. Lastly, it was submitted that the accused is in JC since 13.09.2021, and since no recoveries have to be effected from him, accused ought to be granted bail.

3. *Per contra*, Ld. Addl. PP for the State along with the IO have vehemently opposed the application as per law. It was submitted that no permission whatsoever was taken from relevant authorities to carry out the renovation/ alteration in the building. It was submitted that instead of hiring the services of an expert, a rookie contractor named Jamal was engaged, who probably used inferior material and applied obsolete/incorrect technique, which resulted in the collapse of the building.

4. Submissions of both sides heard.

5. Before advertent to the rival contentions, it would be apposite to succinctly recapitulate the facts of the case : On 19.09.2021 a PCR call vide GD No, 0038A Date: 13.09.2021 at about 11:48 was received at PS Subzi Mandi Delhi, wherein it was mentioned that “CALLER NE BTAYA YAHA BUILDING GIR GYI HAI OR KYI LOG FASE HUYE HAI NEED POLICE” same was entrusted to ASI Selesh Sharma for further necessary action. After receiving the PCR Call, ASI Selesh Sharma along with staff Ct Manoj No. 2104/N reached at the incident site building number 2724, Main Road, Ghanta Ghar Road Subzi Mandi Delhi in-front of Robin Cinema where a building had collapsed and turned into rubble. In the meantime, SHO along with other staff also reached the spot. Thereafter enquiry into the matter was conducted and it was revealed that building number 2724, Main Road Ghanta Ghar, Subzi Mandi, Delhi was a four-storey building which has collapsed. The staff present on the spot immediately got engaged in rescue operation and immediately a message was flashed to the control room to call NDRF, DDMA, MCD, NDPL Fire and Crime Team and Extra Force, thereafter all the teams reached the spot and continued rescue operation. During the rescue operation three injured persons were taken out from the rubble of the above building, who were shifted to Hindu Rao Hospital through CATS ambulance and PCR. Later on it came to the notice that the above said building number 2724 was a very old building, in which ground floor, shop owner Mohak Arora along with contractor Jamal were removing

the main pillars of the building which led to the collapse. Thereafter, ASI Shelesh reached at HRH Hospital where MLCs of patient were obtained which are as under (1) MLC No. 3002/21 of patient Ramji Das S/o Mata Ram (Age-72) on which Dr. opined A/H/O Building Collapsed at Malka Ganj, 2724, 2725 Main Road Subzi Mandi Delhi around ½ hours back today a name of injury U/O & (2) MLC No. 3006/21 of patient Somay S/o Nitin Gupta (Age-12 years) R/o 8332, Singla Building, Roshanara Road Delhi on which Dr. opined that Pt. Brought by CATs Ambulance Unresponsive Motionless state Pt. Declared Brought Dead on 13.09.2021 at 2:05 PM and (3) MLC No. 3008/21 of patient Prashant S/o Nitin Gupta (Age-8) R/o 8332, Singla Building, Roshanara Road, Delhi on which Dr. opined that Pt. Was declared Brought Dead on 13.09.2021 at 02:15 PM. Accordingly, a case FIR No. 525/21, u/s 288/304/34 IPC was got registered and investigation was taken up.

6. A perusal of the record reveals that the collapse of building no. 2724 resulted in death of two school going children. The gravity of the offence is certainly one which would weigh on the mind of the Court while adjudicating the bail application. During the course of arguments, it was brought to the fore by the State that the demolition/ renovation work was entrusted to an unskilled person. This contention could not be refuted by Ld. Counsel for the accused. Ld. Counsel for the accused did not produce before the Court any document whereby the credentials of co-accused Jamal could be ascertained as to the fact that he was a skilled/reputed/experienced contractor. In fact, during the course of

arguments, the IO had submitted that initially the owner/ applicant herein had approached an authorised/reputed/skilled contractor for the renovation work, however, since a high price was quoted, the accused hired co-accused Jamal for the said job. To save a few rupees, the accused not only jeopardised the lives of others but also snuffed out the life of two innocent school going children.

7. Further, it is apparent that during the course of construction, no safety protocols were observed, nor was the area cordoned off. Nor was any signage put, which would have warded off curious onlookers or other passerby. This conduct is, in the perception of this Court, prima facie beyond the realm of mere negligence but falls in the domain of a conduct, done with requisite knowledge of ramifications that may ensue. This observation gets fortified in light of the fact that the said incident took place on main road Ghanta Ghar, Subzi Mandi, which is ostensibly a crowded place. The Ld. M.M. Sh. Kapil Kumar, has correctly observed in his Order dated 20.09.2021 while dismissing the bail application of the accused herein that the main pillar of the building was disturbed in the name of renovation and this act is in itself so dangerous that the knowledge as required under section 304 IPC could be imputed upon the accused.

8. As far as the contentions of Ld. Counsel for the accused qua non-issuance of any notice by the relevant authorities is concerned, it is true that no notice was ever sent by the North MCD prohibiting any construction in the building. However, this fact does not absolve the

liability of the accused persons in light of the fact that:

a) such renovation/demolition was carried on without prior permission and

b) such renovation/demolition was carried on with utter callousness and disregard to basic norms of safety.

9. In fact, letter dated 22.09.2021 sent by the J.E. (B-1)/CLZ also does not absolve the North MCD either. It was brought to the fore that the said renovation/demolition commenced from 10.09.2021 till 13.09.2021, when the building collapsed. It was the duty of the North MCD to ensure that such renovations/ demolitions in their respective areas do not continue unabated, or without due permission or supervision.

10. Further, it would be apt to peruse contents of letter dated 24.09.2021 of the Junior Engineer building B-1/CLZ.

*As per local enquiry conducted it came to notice that Owner/occupier had tried to demolish the flooring stones of shop at property No. 2724, which had recently purchased. While demolishing he was using some machine producing high vibrations. It seems that during the process of demolition he damaged/ displace some load bearing member of GF shop No. 2724 & being load bearing structure with main wall constructed in mud mortar, stones foundation of load bearing wall displaced causing crumbling of entire upper floors leading to **collapse of this building as well as adjoining building.***

11. The last line of this letter makes this Court wonder as to how a 'clean chit' has been given to the North MCD officers, as averred by Ld. Counsel for the accused while placing reliance on the India Today article. The collapse of this building and simultaneous collapse of adjoining building leads the irresistible inference that the entire edifice of the buildings were predicated on a shaky foundation, which would have been ascertained, with due diligence, by the officials concerned, had they performed their duty as per law.

Rather, letter dated 22.09.2021 of JE (B-1)/CLZ reveals that

"1. As per record maintained, this building was not under the category of dangerous building.

3. That Pre-Monsoon Survey was conducted for detection of dangerous buildings by the staff of Building Department, list of identified building is enclosed herewith. As per list 2724-25, Main Road Subzi Mandi was not in the list of dangerous property.

6. Since this building was never declared dangerous, hence there are no such documents available for the purpose of investigation."

12. The factum of adjoining building falling *prima facie* belies the contents of the above letter qua status of the building being not a dangerous one. It was brought to the fore that the building was constructed prior to Independence. Under such circumstances, it was the bounden duty of the North MCD officers to doubly ensure as to the durability of the said building. It also needs to be ascertained whether

the building originally housed 4 floors, or the said floors were built without authorisation. There have been a plethora of instances where unauthorisedly constructed buildings are falling in this city. The Municipal Authorities cannot plead ignorance, nor can they be allowed to put forth specious pleas like the ones they put forth in the present case viz. that the building did not fall under a 'dangerous category'. The officials concerned need to wake up from their reverie themselves lest the Courts step in and take them to task. This time not only the owner/ user/ or contractor will be implicated but the concerned North MCD officials shall also be proceeded against as per law. **Accordingly, a copy of this Order be sent to the Commissioner, North MCD to take necessary action as per law against errant North MCD officers/officials, and fix liability on ones who prepared such shoddy reports qua the structure/durability of the building and the ones who failed to check illegal/unauthorised renovation/construction in their areas, and Commissioner shall file report on NDOH before the Court concerned. It is further directed that the IO shall investigate the lapses committed by the errant North MCD officials, and also bring them to book. The Commissioner, North MCD shall assist the IO in this endeavour in apprehending the black sheep of the department who are complicit in the occurrence of this tragedy. A copy of this Order be also sent to the DCP concerned for effective monitoring of the investigation.**

13. During the course of arguments, it was also submitted by the IO that the building in question was of pre partition era. Thus, *prima facie*, the owner and the contractor carried on demolition/ renovation work on the ground floor with the knowledge that the building is old for modification. The co-accused Jamal is still absconding, and the accused herein has not divulged any details of co-accused barring his phone number. Non-cooperation with the investigating agency on this score is having the effect of stultifying the investigation. The recovery of the drill machine is yet to be effected. The investigation is at its nascent stage.

14. Under these circumstances, taking into the account the gravity of the offence, severity of the punishment that the offence entails, the role attributed to the accused herein and the fact that co-accused is absconding, this Court is of the opinion that the accused Mohak Arora ought not to be granted bail till material witnesses are examined. Accordingly, the present bail application is hereby dismissed.

15. It would also be pertinent to note that a perusal of the record, and after hearing the IO, it has been revealed that no compensation whatsoever has been granted to the parents/guardians of the school going children who lost their lives. This Court is conscious of the fact

that no amount of money can erase the trauma and grief that the family members have suffered. No amount of money can compensate the agony that they have undergone, but it is hoped that some compensation can go in alleviating a bit of the suffering that they have endured, and in recompensing legal and other expenses incurred.

16. Accordingly, a copy of this order be sent to the Ld. Secretary, Central District Legal Services Authority, with a request to disburse the amount of adequate interim compensation in terms of Section 357A Cr. P.C., as per the extant Victim Compensation Scheme.

17. Compliance report be filed before the Court concerned on 04.10.2021.

18. Copy of this Order be also sent to Court concerned for necessary information. Order be uploaded on the website of the District Court.

**(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/27.09.2021**