

**CR No. 254/2020**  
**Nirmal Garg Vs M/s SMC Global Securities Ltd.**

**12/01/2021**

Present: Mr. Manish Sharma, learned LAC for revisionist Nirmal Garg.

An application for early hearing has been filed.

Heard. For the reasons stated therein in such application and having regard to the age of applicant / revisionist the next date of hearing is preponed for **22/01/2021**.

**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central)/Delhi/12/01/2021**

**CA No.: 295/2019**  
**Rama Nand Chaudhary Vs Mohd. Israil**

**12/01/2021**

Present: None for appellant Ramanand Chaudhary.

Mr. Pramod Kumar, learned counsel for respondent alongwith respondent in person.


It is pointed out by respondent that after obtaining suspension of sentence vide order dated 28/06/2019, accused Ramanand Chaudhary is not pursuing the matter diligently and repeatedly he is not appearing and it is a matter of record. Not only appellant, his counsel is also not appearing. It is further noted in order dated 06/08/2020 despite contact made by the Court staff, counsel for appellant chose not to join proceedings through VC.

As such, it is stated by the counsel for the respondent that such accused is taking undue advantage of such position.

Heard. Now the Courts are functioning physically as well as through VC and appropriate proceedings are being taken place.

Under these circumstances, issue bailable warrant of accused / appellant in the sum of Rs. 5,000/- with surety of the like amount. Steps be taken within 2 days. Further issue Court notice to his counsel for the next date of hearing through electronic mode. Further respondent is also at liberty to intimate counsel for appellant.

Put up for **22/01/2021**.

  
**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central)/Delhi/12/01/2021**

At this stage, appellant Ramanand Chaudhary has appeared. As such, bailable warrant issued against him are stayed till the next date of hearing.

  
**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central)/Delhi/12/01/2021**

**SC No.:27628/2016**  
**FIR No.: 221/2015**  
**PS: Karol Bagh**  
**State Vs Bablu Mathur & others**

**12/01/2021**

Present:

Mr. Pawan Kumar, Learned Addl.PP for the State.

Mr. Tushar, learned counsel for accused No.1 through VC.

Mr. Zishan, proxy for Mr. Z.A. Siddique counsel for accused No.2 Ankit Aggarwal.

Accused No.1,2 & 3 are in person in Court on interim bail.

Accused No.4 Babu Belel stated to be on regular bail.

Accused No. 5 Subroto Bera is stated to be on interim bail but not present and stated to be on his way from West Bengal.

Heard.

At request, put up for PE in terms of previous order for **04/05/2021**.

  
**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central)/Delhi/12/01/2021**

**CR No. 249/2020**  
**Uma Shankar Kapoor Vs State**

**12/01/2021**

Present: Mr. Mukesh Chauhan, learned counsel for revisionist through VC.  
Mr. Pawan Kumar, Learned Addl.PP for the State.

Learned counsel for revisionist seeks short adjournment to place on record the order passed by learned Trial Court / SEM.

At request, put up for **22/01/2021**.

**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central)/Delhi/12/01/2021**

**MISC APPLICATION**

**State v. Davar @Dava @Kancha  
(Applicant Bashu @ Bangali)  
FIR No.: 38/2020  
PS: Kashmere Gate  
U/S: 307,392,393,397,411,34 IPC**

**12.01.2021**

**This court is holding physically today as per directions.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. S.N. Shukla, LAC for applicant.

This is 2<sup>nd</sup> application for waiving of condition of surety bond.  
Such application moved through legal aid.

Heard in detail.

It is now stated that even the accused is in JC and not able to  
furnish surety bond to the tune of Rs. 25,000/- for more than two months.

In these circumstances, bail bond condition is reduced from Rs.  
25,000/- to Rs. 5000/- only. Other conditions of the original bail order  
dated 05.08.2020 remain the same.

**With these observations, present application is  
disposed of.**

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

  
**(Naveen Kumar Kashyap)  
ASJ-04/Central/12.01.2021**

**BAIL APPLICATION**

**State v. Taufiq @ Kala  
(Applicant Sunny)  
FIR No.: 20/2016  
PS: Crime Branch**

**12.01.2021**

**This court is holding physically today as per directions.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
None for applicant.

**Put up on next physical hearing day on 16.01.2021.**

**(Naveen Kumar Kashyap)  
ASJ-04/Central/12.01.2021**

**BAIL APPLICATION**

**State v. Arsalan Ali  
(Applicant Govind)  
FIR No.: 182/2017  
PS: Kamla Market  
U/S: 395,397,412,34 IPC &  
25,27 Arms Act**

**12.01.2021**

**This court is holding physically today as per directions.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Amzad Khan, Ld. Counsel for applicant/Govind.

Arguments in details heard.

It is stated that accused is on interim bail by virtue of order passed by Hon'ble Supreme Court and next date of hearing before Hon'ble Supreme Court is 21.01.2021.

**Put up for orders/clarifications with case file on  
22.01.2021.**

  
**(Naveen Kumar Kashyap)  
ASJ-04/Central/12.01.2021**

**BAIL APPLICATION**

**State v. Salman @Bhuri  
FIR No.: 329/2017  
PS: Subzi Mandi  
U/S: 392,397,394,120B,34**

**12.01.2021**

**This court is holding physically today as per directions.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Vipin Chaudhary, Ld. Counsel for applicant through VC.

This is an application for regular bail moved on behalf of accused/applicant Salman @ Bhuri dated 21.11.2020.

Part arguments heard.

**At request, put up for further arguments including regarding earlier bail application by this accused as well as regular bail granted, if any to any of the co-accused, on 16.01.2021.**

**(Naveen Kumar Kashyap)  
ASJ-04/Central/12.01.2021**



**CA: 171/2019**  
**Chanchal Tyagi v. Sunder Tyagi**

**12.01.2021**

Present: Sh. Mukesh Kumar, Ld. Counsel for Appellant Chanchal tyagi  
through VC.

It is claimed that all the payments made to the respondent as  
per settlement.

At request, put up for appropriate orders for 16.01.2021.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/12.01.2021**

**SC:287/2019**  
**FIR No: 478/2018**  
**PS: Burari**  
**State v. Sanjay Tiwari &Ors.**

**12.01.2021**

**This court is holding physically today as per directions.**

Present: Mr.Pawan Kumar, learned Addl.PP for State .  
Accused no.1 and 4 in person with counsel Sh. B.S. Tiwari.

**At request, put up for DE in terms of previous order for  
22.01.2021.**

Steps be taken within two days.

Earliest possible next date of hearing of physical hearing day is  
given in view of directions passed by Hon'ble Supreme Court.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/12.01.2021**

**BAIL APPLICATION NO.: 517/2020**

**State v. V.K. Jain  
FIR No.: 84/2019  
PS: I.P. Estate**

**12.01.2021**

**This court is holding physically today as per directions.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
None for applicant/V.K. Jain on this physical hearing day in person or through VC.  
Sh. Pradeep Sharma, Ld. Counsel for non-applicant/accused Waziran.

**This is an application for cancellation of bail.**

Interim protection, if any to continue in terms of previous order.  
Be awaited for 12.30 pm.

**(Naveen Kumar Kashyap)  
ASJ-04/Central/12.01.2021**

**At 1.45 PM**

**Present:** Mr. Pawan Kumar, learned Addl.PP for State.  
None for applicant/V.K. Jain on this physical hearing day in person or through VC.  
Sh. Pradeep Sharma, Ld. Counsel for non-applicant/accused Waziran.

**In the interest of justice, put up for appearance of counsel for applicant and appropriate order with connected matters on 22.01.2021.**

**(Naveen Kumar Kashyap)  
ASJ-04/Central/12.01.2021**

**BAIL APPLICATION NO.: 914/2020**

**State v. Shakir  
FIR No.: 84/2019  
PS: I.P. Estate**

**12.01.2021**

**This court is holding physically today as per directions.**

**Present application is for Anticipatory Bail.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. N. Prabhakar, Ld. Counsel for the applicant through VC.

Arguments already heard.

Put up for orders/clarifications at 4 pm.

  
**(Naveen Kumar Kashyap)  
ASJ-04/Central/12.01.2021**

**At 4 pm.**

Connected matters are adjourned for further arguments/clarifications on 22.01.2021 with TCR.

As such, put up this matter also with connected three matters on the same day for further arguments, if any/orders/clarifications on **22.01.2021**.

  
**(Naveen Kumar Kashyap)  
ASJ-04/Central/12.01.2021**

**BAIL APPLICATION NO.: 540/2020**

**State v. Sukha @ Imran Khan**  
**FIR No.: 84/2019**  
**PS: I.P. Estate**

**12.01.2021**

**This court is holding physically today as per directions.**

**This is an application for Anticipatory bail.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Pradeep Sharma, Ld. Counsel for applicant.  
None for non-applicant/V.K. Jain.

Part further arguments in detail heard from learned counsel for applicant/accused.

It is stated that chargesheet already filed . Let chargesheet be summoned for next physical hearing day on 22.01.2021.

**In the meanwhile, interim protection to continue.**

**Put up for further arguments/orders/clarifications including of anticipatory bail granted if any, to any co-accused in present case by any court, on 22.01.2021.**

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/12.01.2021**

**BAIL APPLICATION NO.: 541/2020**

**State v. Ajit @ Aziz  
FIR No.: 84/2019  
PS: I.P. Estate**

**12.01.2021**

**This court is holding physically today as per directions.**

**This is an application for Anticipatory bail.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Pradeep Sharma, Ld. Counsel for applicant.  
None for non-applicant/V.K. Jain.

Part further arguments in detail heard from learned counsel for applicant/accused.

It is stated that chargesheet already filed . Let chargesheet be summoned for next physical hearing day on 22.01.2021.

**In the meanwhile, interim protection to continue.**

**Put up for further arguments/orders/clarifications including of anticipatory bail granted if any, to any co-accused in present case by any court, on 22.01.2021.**

  
**(Naveen Kumar Kashyap)  
ASJ-04/Central/12.01.2021**

**BAIL APPLICATION NO.: 539/2020**

**State v. Fazar Mohammad  
FIR No.: 84/2019  
PS: I.P. Estate**

**12.01.2021**

**This court is holding physically today as per directions.**

**This is an application for Anticipatory bail.**


Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Pradeep Sharma, Ld. Counsel for applicant.  
None for non-applicant/V.K. Jain.

Part further arguments in detail heard from learned counsel for applicant/accused.

It is stated that chargesheet already filed . Let chargesheet be summoned for next physical hearing day on 22.01.2021.

**In the meanwhile, interim protection to continue.**

**Put up for further arguments/orders/clarifications including of anticipatory bail granted if any, to any co-accused in present case by any court, on 22.01.2021.**

  
**(Naveen Kumar Kashyap)  
ASJ-04/Central/12.01.2021**

SC No.: 373/2018  
FIR No.: 329/2017  
PS: Subzi Mandi  
State Vs Salman @ Bhuri & Ors.

**12/01/2021**

Present:

Mr. Pawan Kumar, Learned Addl.PP for the State.

Accused Salman @ Bhuri produced from Tihar Jail.

Accused No.4 Mirza Waseem Beg in person in Court and stated to be on interim bail.

Accused No.2 & 3 are not present.

Issue production warrant for accused who are in JC, if any, for the next date of hearing.

Put up for **04/05/2021**.

(NAVEEN KUMAR KASHYAP)  
ASJ-04(Central)/Delhi/12/01/2021



**CA No.: 365/2019**  
**Brijesh Goswami Vs Amit Gupta**

**12/01/2021**

Present: Appellant in person in Court physically.

Mr. Rajeev Kumar Kanwar counsel for respondent through VC.

Heard.

Put up for judgment / clarification, if any, for **16/01/2021**.

**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central)/Delhi/12/01/2021**

SC No.: 292/2019  
FIR No.: 84/2011  
PS: Chandni Mahal  
State Vs Haji Manjoor & others

**12/01/2021**

Present: Mr. Pawan Kumar, Learned Addl.PP for the State.  
Accused No. 2 to 5, 9, & 12 in person.  
Accused No. 7,8, 10, 11, & 13 are absent.  
Mr. Prabhas, proxy counsel for accused No.2,3 & 4.  
Mr. M.N. Khan, learned counsel for accused No. 7 to 13.

Part arguments on charge heard.

Put up for further arguments including regarding specific role of each of the accused regarding each of the offences.

Put up for **16/02/2021**. Further issue notice to IO to appear in person on the next date of hearing.

  
(NAVEEN KUMAR KASHYAP)  
ASJ-04(Central)/Delhi/12/01/2021

**Crl. Re.: 583/2018**  
**Prem Lata Chauhan v. State**

**12.01.2021**

**This court is holding physically today as per directions.**

Present: Revisionist Prem Lata Chauhan in person with counsel  
Sh. Pawan Kumar Sisodia.  
Mr. Pawan Kumar, learned Addl. PP for State/Respondent no.1.  
Sh. Jugal Wadhwa, Ld. Counsel for R-2 Bhupender Singh Kochar  
None for Respondent no.3.  
Respondent no. 4, 5, 6 are in person.  
Respondent no.7 Parmeshwari Devi and Respondent no.11  
Govind Prasad are stated to be expired.  
Respondent no.8 and 9 are in person.  
Respondent no. 10 is absent and is stated to be son of  
Respondent no.9.  
Respondent no. 12 in person.  
Respondent no.13 is absent, who is wife of Respondent no.12.

Written arguments filed by the revisionist as well as  
Respondent no.4,5,6,8,9 and 10.

Copies of the same be supplied by the respective parties to all  
the other parties and not only to the other side as it is claimed that even  
the interest of certain respondents is not same. Further, it is revealed that  
Respondent no. 7 Parmeshwari and Respondent no. 11 Govind Prasad as  
per memo of parties dated 21.09.2020 are already expired as on the date.  
As such, revisionist to take appropriate steps in this regard also by the  
next date of hearing.

Further, under these circumstances, it is stated by learned  
counsel for revisionist that interim protection be extended till next date.

On the other hand, same is opposed vehemently by learned  
counsel for Respondent no.2 stating that they are taking benefit of their  
own wrong. Further, the factum of death of Govind Prasad and  
Parmeshwari is already reflected in ordersheet dated 15.11.2019. As such,  
he cannot take the benefit of the same.

Heard.

But as apart from other, matter is now listed for further  
arguments/orders on the revision petition. In the meanwhile, the

revisionist cannot be left remedy-less. As such, interim order continue till next date of hearing.

**Put up for further appropriate proceedings/orders on 26.02.2021.**

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/12.01.2021**

**CA No.100/2020**  
**Suresh Jain Vs State of NCT of Delhi & Anr.**

**12/01/2021**

Present: None for appellant.

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

Mr. B.K.Wadhwa, learned counsel for respondent no.2.

It is stated that arguments in detail heard on behalf of respondent no.2. But appellant purposely is not addressing final arguments nor on the application of suspension of sentence and taking undue advantage of the concession given during lockdown. The same is noted.

At request, be awaited for appellant for 12:30 PM.

  
**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central)/Delhi/12/01/2021**

**At 12:30 PM**

Convict / appellant Suresh Jain is not present. Further his counsel is also not present. Issue bailable warrant in the sum of Rs. 5,000/- against appellant and notice to his surety for the next date of hearing. Further also issue notice to his counsel through electronic mode. Steps be taken within 2 days by respondent for issuance of such notices.

Put up for **22/01/2021**.

  
**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central)/Delhi/12/01/2021**

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

**Application No.:- 1796/2020**  
**State Vs Subhash Chander @ Mukesh**  
**FIR No.151/2020**  
**P. S. I.P. Estate**  
**U/s: 384, 170, 71 IPC**

**12/01/2021**

Present: Mr . Pawan Kumar, Learned Addl. PP for State.  
Mr Hari Dutt Sharma, learned counsel for accused through VC.

Vide this order, bail application u/s 439 Cr.PC dated 03/11/2020 filed by applicant through counsel is disposed off.

I have heard both the sides.

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

*State Vs Subhash Chander @ Mukesh*  
*FIR No.151/2020*  
*P. S. I.P. Estate*  
*U/s: 384, 170, 71 IPC*

of the individual guaranteed by Article 21 of the Constitution.

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

But, the liberty of an individual is not absolute. The Society by its collective wisdom through process of law can withdraw the liberty that it has sanctioned to an individual when an individual becomes a danger to the societal

order. A society expects responsibility and accountability from the member, and it desires that the citizens should obey the law, respecting it as a cherished social norm. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly thing which the society disapproves, the legal consequences are bound to follow.

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

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

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



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

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

It is stated in the application that accused is in JC for since 07/08/2020. it is further argued that he is no more required for the purpose of investigation; that he is falsely implicated in the present case; As such, it is prayed that he be granted regular bail.

On the other hand, in reply dated 06/11/2020 filed by SI Narender

Beniwal, as also argued by learned Addl.PP for the State it is stated that present accused alongwith co-accused extorted money from the complainant by showing themselves as police officials. That later on present accused was arrested based on secret information; that he is a habitual offender involved in similar offences earlier also; that he does not have any residence in Delhi. As such, his presence may not be secured for trial. That he may threaten the complainant / witness. As such, present bail application is strongly opposed.

In the present case, the maximum punishment of the offences alleged against the present accused is 3 years. Further, as far as present accused is concerned, nothing remains to be recovered at his instance. In fact, the period for seeking police remand is already over. But having noted so, it is stated by the IO that his presence may not be secured if he is released on bail. But appropriate terms can be imposed to secure his presence. As such, no purpose would be served by keeping such accused in JC. Trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case of present nature. In present case, no previous conviction or even involvement in criminal cases is placed on record by the IO.

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

- i) That he will appear before IO / Trial Court as and when called as per law.*
- ii) He will not indulge in any kind of activities which are alleged against him in the present case.*
- iii) That he will not leave Delhi without prior permission of the Trial Court concerned.*
- iv) He will not threaten the witness or tampering with evidence.*
- v) He shall convey any change of address immediately to the IO and the court;*
- vi) He shall also provide his mobile number to the IO and further share his location through mobile phone once in everyweek till filing of chargesheet and*

*thereafter as may be directed by the learned Trial Court.*

It is clarified that in case if the applicant/ accused is found to be violating any of the above conditions, the same shall be a ground for cancellation of bail and the State shall be at liberty to move an application for cancellation of bail.

I may observe that certain guidelines had been laid down by the Hon'ble Delhi High Court in the case of "**Ajay Verma Vs. Government of NCT of Delhi**" WP (C) 10689/2017 dated 08.03.2018 wherein it was observed and I quote as under:

*"..... The trial courts should not only be sensitive but extremely vigilant in cases where they are recording orders of bail to ascertain the compliance thereof.....When bail is granted, an endorsement shall be made on the custody warrant of the prisoner, indicating that bail has been granted, along with the date of the order of bail.*

- a) In case of inability of a prisoner to seek release despite an order of bail, it is the judicial duty of the trial courts to undertake a review for the reasons thereof.*
- b) Every bail order shall be marked on the file.*
- c) It shall be the responsibility of every judge issuing an order of bail to monitor its execution and enforcement.*
- d) In case a judge stands transferred before the execution, it shall be the responsibility of the successor judge to ensure execution....."*

I note that in the present case the bail bonds have been directed to be furnished before the Ld. Trial Court/ Ld. MM and hence in terms of the above observations, the Ld. MM is impressed upon to inform this court about the following:

- a) The date on which conditions imposed by this court are satisfied;*
- b) The date of release of prisoner from jail;*
- c) Date of ultimate release of prisoner in case the prisoner is in jail in some other case.*

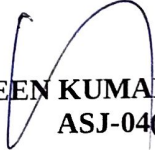
The copy of this order be sent to **Ld. MM** and also to the **Superintendent Jail** who shall also inform this court about all the three aspects as contained in the para herein above. The Superintendent Jail is also directed to

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inform this court if the prisoner is willingly not furnishing the personal bond or in case if he is unable to furnish the surety or any other reason given by the prisoner for not filing the bonds. One copy of this order be also sent to the **SHO Concerned** to ensure compliance.

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

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

  
(NAVEEN KUMAR KASHYAP)  
ASJ-04(Central/Delhi)  
12/01/2021

**Bail Applications Nos.: 1613, 1616 & 1618/2020**  
**State Vs Mohd. Shamshad Qureshi, Nishad Begum & Sajid**  
**FIR No.: 161/2020**  
**PS I.P. Estate**

**12/01/2021**

Present: Mr. Pawan Kumar, Learned Addl.PP for the State.  
None for the applicants.

Last & final opportunity is given to counsel for the applicants to address further arguments, if any, otherwise bail applications would be decided based on the arguments already addresses and material available on record.

Put up for **13/01/2021**.

  
**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central)/Delhi/12/01/2021**

**BAIL APPLICATION**

**State v. Ashish Kumar Bahuguna  
(applicant Akash)  
FIR No.: 106/2012  
PS: Kamla Market**

**12.01.2021**


**This court is holding physically today as per directions.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Aman Madan, Ld. Counsel for applicant.

Arguments heard.

Due to Training Programme on "ePrison Module/Software"  
scheduled starting from 3.30 pm, no time left.

**Put up for clarifications/orders for 14.01.2021.**

  
**(Naveen Kumar Kashyap)  
ASJ-04/Central/12.01.2021**

**BAIL APPLICATION**

**State v. Tahir Hussain  
(Applicant Rizwan Khan)  
FIR No.: 134/2015  
PS: Lahori Gate**

**12.01.2021**


**This court is holding physically today as per directions.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Amzad Khan, Ld. Counsel for applicant.

Arguments in detail heard.

Due to Training Programme on "ePrison Module/Software"  
scheduled starting from 3.30 pm, no time left.

**Put up for clarifications/orders for 16.01.2021.**

  
**(Naveen Kumar Kashyap)  
ASJ-04/Central/12.01.2021**

**BAIL APPLICATION NO.: 1020/2020**

**State v. Inder Prakash & Anr.  
FIR No.: 368/2019  
PS: Sarai Rohilla**

**12.01.2021**

**This court is holding physically today as per directions.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
None for applicant.  
Sh. Sanjeev Kumar, Ld. Counsel for complainant.

**File received through Ld. Principal District & Sessions  
Judge(HQs).**

**Interim protection, if any to continue till next date in  
terms of previous order.**

**Put up for appearance of counsel for applicant and  
further appropriate orders for 15.01.2021.**

**(Naveen Kumar Kashyap)  
ASJ-04/Central/12.01.2021**



**BAIL APPLICATION NO.: 2042/2020**

**State v. Karan Arora  
FIR No.: 353/2020  
PS: Lahori Gate**

**12.01.2021**

**This court is holding physically today as per directions.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Abhay Kumar, Ld. Counsel for the applicant/Karan Arora.

**File received through Ld. Principal District & Sessions  
Judge(HQs).**

At request of learned counsel for accused that copy of reply  
filed by IO dated 02.12.2020 be again supplied to him.

**At request, put up for further arguments/clarifications  
from the accused side and appropriate orders for 14.01.2021.**

  
**(Naveen Kumar Kashyap)  
ASJ-04/Central/12.01.2021**

**BAIL APPLICATION NO.:1685/2020**

**State v. Sanjeev Pahwa  
FIR No.: 354/2017  
PS: Prasad Nagar  
U/S: 406 IPC**


**12.01.2021**

**This court is holding physically today as per directions.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Proxy counsel for applicant.  
Sh. Vipin Sanduja, Ld. Counsel for complainant.

**File received through Ld. Principal District & Sessions  
Judge(HQs).**

**At request on behalf of applicant, put up for further  
arguments as it is stated that earlier counsel for main accused  
was suffering from Corona, on 15.01.2021.**

  
**(Naveen Kumar Kashyap)  
ASJ-04/Central/12.01.2021**

**BAIL APPLICATION NO.: 1829/2020**

**State v. Seema Chawla  
FIR No.: 231/2020  
PS: Rajinder Nagar**

**12.01.2021**

**This court is holding physically today as per directions.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Varun Chawla, Ld. Counsel for applicant.  
None for complainant.

**File received through Ld. Principal District & Sessions**

**Judge(HQs).**

In view of such order, put up for orders/clarifications/further arguments, if any for **14.01.2021**.

Interim protection, if any to continue till next date.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/12.01.2021**

**BAIL APPLICATION NO.: 1830/2020**

**State v. Sanjiv Kumar Chawla**  
**FIR No.: 231/2020**  
**PS: Rajinder Nagar**

**12.01.2021**

**This court is holding physically today as per directions.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Varun Chawla, Ld. Counsel for applicant.  
None for complainant.

**File received through Ld. Principal District & Sessions  
Judge(HQs).**

In view of such order, put up for orders/clarifications/further arguments, if any for **14.01.2021**.

Interim protection, if any to continue till next date.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/12.01.2021**

**BAIL APPLICATION NO.: 1857/2020**

**State v. Mrigna Chawla  
FIR No.: 231/2020  
PS: Rajinder Nagar**

**12.01.2021**

**This court is holding physically today as per directions.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Varun Chawla, Ld. Counsel for applicant.  
None for complainant.

**File received through Ld. Principal District & Sessions  
Judge(HQs).**

In view of such order, put up for orders/clarifications/further arguments, if any for **14.01.2021**.

Interim protection, if any to continue till next date.

  
**(Naveen Kumar Kashyap)  
ASJ-04/Central/12.01.2021**

**BAIL APPLICATION NO.: 1858/2020**

**State v. Anshul Chawla  
FIR No.: 231/2020  
PS: Rajinder Nagar**

**12.01.2021**

**This court is holding physically today as per directions.**

Present: Mr. Pawan Kumar, learned Addl.PP for State.  
Sh. Varun Chawla, Ld. Counsel for applicant.  
None for complainant.

**File received through Ld. Principal District & Sessions  
Judge(HQs).**

In view of such order, put up for orders/clarifications/further arguments, if any for **14.01.2021**.

Interim protection, if any to continue till next date.

  
**(Naveen Kumar Kashyap)  
ASJ-04/Central/12.01.2021**

**Bail Application**

Bail Application No.: 1957/2020  
**State Vs. Rahul @ Dadu**  
**FIR No. : 425/2019**  
**PS: Karol Bagh**  
**U/S: 385,307,120B, 34 IPC & 25, 54, 59 Arms Act**

**12/01/2021**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State.  
Mr. Faheem Alam, learned Counsel for applicant.

Vide this order, the regular bail application dated 21/11/2020 under section 439 Cr.P.C. on behalf of accused filed through counsel is disposed of.

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

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

**State Vs. Rahul @ Dadu**  
**FIR No. : 425/2019**  
**PS: Karol Bagh**  
**U/S: 385,307,120B, 34 IPC & 25, 54, 59 Arms Act**

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

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



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

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

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

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C.

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

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for grant or refusal of bail to an accused in a non-bailable offence like, (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) Nature of accusation and evidence therefor, (iii) Gravity of the offence and punishment which the conviction will entail, (iv) Reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, (v) Character and behavior of the accused, (vi) Means, position and standing of the accused in the Society, (vii) Likelihood of the offence being repeated, (viii) Reasonable apprehension of the witnesses being tampered with, (ix) Danger, of course, of justice being thwarted by grant of bail, (x) Balance between the rights of the accused and the larger interest of the Society/State, (xi) Any other factor relevant and peculiar to the accused. (xii) While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be

refused. Furthermore, in the landmark judgment of **Gurucharan Singh and others v. State** (AIR 1978 SC 179), it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

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

In the present case, it is submitted on behalf of the accused that he is in JC since 09/07/2020; that he is falsely implicated in the present case; that he was arrested by special cell in another case FIR No.172/2020 and now he is already granted bail in that another matter; that section 307 IPC was added later on and was not there in the original

State Vs. Rahul @ Dadu

FIR No. : 425/2019

PS: Karol Bagh

U/S: 385,307,120B, 34 IPC & 25, 54, 59 Arms Act

FIR; further name of the present applicant is not mentioned in the present FIR; that investigation is already complete and chargesheet has already been filed; that two co-accused Ashok and Bhanu Pratap are already granted bail by hon'ble High Court vide order dated 24/08/2020 and 30/09/2020; further interim protection is given by co-accused Govind @ Golu by Hon'ble High Court. That role of the present accused is similar to that of role of accused Govind; that phone location of the present accused as well as of the co-accused Bhanu Pratap is shown in Karol Bagh area and said Bhanu Pratap is already granted bail by the Hon'ble High Court; that no material / article is recovered at the instance or from the possession of the present accused; that no purpose would be served by keeping him in JC; that due to present pandemic conditions Trial is likely to take some more time; that earlier regular bail application of present accused is already rejected by the present Court on 17/10/2020. As such, it is prayed that he be granted regular bail.

On the other hand, it is argued by the learned Addl.PP for the state that even after grant of regular bail by the Hon'ble High Court to two of the co-accused Bhanu Pratap and Ashok, his regular bail application where all such contentions were raised is already rejected by this court vide detailed order dated 17/10/2020. It is further argued that the role of the present accused is different from that role of other accused. As such, there is no question of parity. It is further stated that there is no material change in circumstances since dismissal of the last bail application. As such, present applications is strongly opposed.

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

It is rightly pointed out by the learned Addl. PP for the State that offence is serious in nature and holding that role of the present accused is different from two co-accused who are granted regular bail by the Hon'ble High Court, the regular bail of the present accused is already dismissed by this Court. There is no material change in circumstances.

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Further, no anticipatory or regular bail is granted by Hon'ble High Court to accused Govind and only interim protection is given. As such, having regard to the nature of offence, role of the present accused, this Court is not inclined to grant regular bail to accused at this stage. **With these observations present bail application is disposed of as dismissed.**

**Learned counsel for applicant is at liberty to obtain through electronic mode. Copy of this order be sent to concerned Jail Superintendent. Copy of this order be sent to IO / SHO concerned. Copy of order be uploaded on website.**

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

(Naveen Kumar Kashyap)  
ASJ-04/Central/Delhi/12/01/2021

**Bail Application**

Bail Application No.: 2235/2020

**State Vs. Mahesh @ Mannu**

**FIR No. : 425/2019**

**PS: Karol Bagh**

**U/S: 385,307,120B, 34 IPC & 25, 54, 59 Arms Act**

**12/01/2021**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State.  
Mr. Rajeev Pratap Singh, learned Counsel for applicant.

Vide this order, the regular bail application dated 14/12/2020 under section 439 Cr.P.C. on behalf of accused filed through counsel is disposed of.

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

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

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*U/S: 385,307,120B, 34 IPC & 25, 54, 59 Arms Act*

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

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

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

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

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

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



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

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

and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

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

In the present case, it is submitted on behalf of the accused that he is in JC since 2014 in other matter; that role of the present accused is shown as conspirator; that he did not physically participate in the alleged offence in question, even as per the case of the prosecution that as far as present case is concerned no purpose would be served by keeping him in JC; that nothing remains to be recovered from him; that two of the co-accused Ashok Kumar and Bhanu Pratap are already granted bail by

the Hon'ble High Court; that he is ready to join investigation and attend the Court day after as and when so directed. As such, it is prayed that he be granted regular bail.

On the other hand, in detailed reply dated 21/12/2020 filed by SI Shiv Narain and as also argued by the learned Addl.PP for the state that he is main conspirator in the present case; that he called from the jail from whatsapp number to the complainant and threatened him; that at his instance other co-accused fired at the complainant side. That his whatsapp call is recorded by the complainant by putting the whatsapp call on speaker and voice recording the same. As such, there are scientific evidence against the present accused also; that his role is clearly different from the role of the other accused who are granted regular bail by the Hon'ble High Court.

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

It is rightly pointed out by the learned Addl. PP for the State that offence is serious in nature and present accused is the main conspirator of the same; further there are documentary evidence / recording available against the present accused; further the manner in which and the place from which such threats was extended is a serious issue. Further, the role of the co-accused who are granted bail by the Hon'ble High Court is different from the present accused. Such, co-accused only acted at the instance of the present accused as per case of the prosecution, whereas he is the main conspirator. As such, having regard to the nature of offence, role of the present accused, this Court is not inclined to grant regular bail to accused at this stage. **With these observations present bail application is disposed of as dismissed.**

**Learned counsel for applicant is at liberty to obtain through electronic mode. Copy of this order be sent to concerned Jail Superintendent. Copy of this order be sent to IO / SHO concerned.**

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**Copy of order be uploaded on website.**

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

(Naveen Kumar Kashyap)  
ASJ-04/Central/Delhi/12/01/2021

**State Vs Liyakat Ali & others**  
**(Application for bail of Govind Kumar)**  
**FIR No: 215/2014**  
**PS: NDRS**

**12/01/2021**

Present: Mr. Pawan Kumar, learned Addl.PP for State.

Mr. S.N. Shukla, learned counsel for applicant Govind Kumar.

In this case regular bail application dated 07/03/2020 was filed through Legal Aid Counsel Mr. Yatinder Kumar. Further, another application dated 19/10/2020 on behalf of same accused was also filed and the same is still pending. As such, both the applications are merged together.

Argument heard on the regular bail application.

Put up for order today itself.

  
**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central)/Delhi/12/01/2021**

At this stage,

Due to online training programme on “e-Prison Module/Software” scheduled for 12/01/2021 through CISCO Webex Meeting application, no time is left.

Put up for orders for 16/01/2021.

  
**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central)/Delhi/12/01/2021**