

**Bail Application**

**Application No.: 1394/2020**  
**State Vs. Noor Alam s/o Mohd. Makim**  
**FIR No. :11/2020**  
**PS: Old Delhi Railway Station**  
**U/S: 370 IPC**

**07.10.2020**

Present: Mr. Pawan Kumar,Ld. Addl. PP for the State through  
VC  
Mr. Shahnawaj, learned Counsel from for  
Accused through VC.  
IO also present through VC.

Vide this order, the regular bail application under section 439 Cr.P.C. on behalf of accused dated 26/09/2020 filed through counsel is disposed off.

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 therefore. The

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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. (**Sundeeep 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 argued on behalf of accused that he is wrongly arrested on 07/09/2020 and implicated in the present case; that he is a poor labourer; and work as a labourer for manufacturing slippers in a factory in Delhi; that he was coming from Bihar with son of his neighbourer to drop such son to his uncle in Delhi. That schools of such child are closed in Bihar. As such, he was coming to his uncle. It is further stated that father of the child also appeared during such arguments through VC and he even reaffirmed the stand of the accused. It is further stated that nothing incriminating has come on record during investigation against such accused. As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by the IO as also argued

by the learned Addl.PP for the state that there are serious and specific allegations against the present accused; that he is involved in the trafficking of minor which offence is punishable with rigorous imprisonment for a terms not less than 10 years, but which may extend upto life imprisonment. It is further stated that admittedly that child in question is only about 14 years; that such child was rescued by a joint team of Bachpan Bachao Andolan, NGO and concerned department of Delhi government in a joint raid. As such, present bail application is strongly opposed.

In the present case, no doubt offence alleged is very serious in nature. Further court should be on extra guard and sensitive while deciding such applications relating to allegation of trafficking of minors. In fact, even the legislature has provided minimum punishment for not less than 10 years for such offence.

But having observed so, it is one of the pre-condition in any criminal case to see whether there is prima facie material in support of such allegation on record which is also legally sustainable. One of the pre-condition of offence u/s 370 IPC is that it should be for the purpose of exploitation. Further, such exploitation includes slavery or practices similar to slavery. But in the present case, as per the material on record, lawful guardian / father of the minor child stated during arguments that he has sent the child alongwith the present accused for sending him to his uncle at Delhi so that he can visit Delhi. Further, during his statement u/s 164 Cr.PC produced by the IO during proceedings, it can be observed that there is no allegation of offence u/s 370 IPC. Further, such minor child alongwith present accused is arrested at Railway Station itself and there is no proof / material regarding such slavery or other exploitation. Further time to seek PC remand is already over. As such, no purpose would be served by keeping the accused in JC particularly during such pandemic situation. Further, it may be noted that there is fundamental presumption of innocence in any criminal case.

In above facts and circumstances, such accused is granted bail subject to furnishing of **personal bond in the sum of Rs. 10,000/- with one sound surety 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 India without permission of the Court.*

*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;*

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 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**



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**electronic mode. Further copy of this order be sent to Concerned Jail Superintendent, IO / SHO. Copy of order be uploaded on website.**

NAVEEN KUMAR KASHYAP  
Digitally signed by NAVEEN KUMAR KASHYAP  
Date: 2020.10.07 16:19:08 +05'30'

**(Naveen Kumar Kashyap)**  
**ASJ-04(Central)/Delhi/07/10/2020**

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**U/S: 370 IPC**

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

**Application No.: 1447/2020**  
**State Vs Yashir Shikari s/o Sajjid**  
**FIR No.19001/2020**  
**P. S.Sarai Rohilla**  
**U/s: 379, 411, 34 IPC**

**07/10/2020**

Present: Mr. Pawan Kumar, Learned Addl. PP for State is  
available through VC.

Mr. Narender Thakur, learned counsel for accused  
through VC.

Vide this order, bail application u/s 439 Cr.PC dated  
29/09/2020 filed by applicant through counsel is disposed off.

It is stated in the application that he is in JC since 29/08/2020;  
that he was lifted by the Crime Branch Special Cell on 14/08/2020; that  
investigation is already complete; that he is the only bread earner of his  
family; that his bail is already dismissed by the learned MM vide order  
dated 17/09/2020; that nothing incriminating is recovered from him except  
the planted case property. As such, it is prayed that he be granted regular  
bail.

On the other hand, in reply filed by the IO, as also argued by  
learned Addl.PP for the State it is stated that he is part and parcel of inter-  
state auto lifter gang; that he has stolen the case property / car in question  
and the same is recovered at his instance alongwith four other cars apart  
from that jammal, i-pad2 and 47 remote keys were also recovered from  
him at his instance from his house; that he is a habitual case; that he may  
threaten the complainant as well as witnesses. It is admitted that there is  
no previous record found as per record against him. As such, present bail

**Application No.: 1447/2020**  
**State Vs Yashir Shikari s/o Sajjid**  
**FIR No.19001/2020**  
**P. S.Sarai Rohilla U/s: 379, 411, 34 IPC**

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application is strongly opposed.

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 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

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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

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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

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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

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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, the maximum punishment of the offences alleged against the present accused is 3 years. It is a matter of record that accused is in JC since 14/08/2020. 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. 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 surety 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*

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***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;*



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- 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 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.**

NAVEEN KUMAR KASHYAP

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Date: 2020.10.07 16:19:55 +05'30'

**(NAVEEN KUMAR KASHYAP)  
ASJ-04(Central/Delhi)  
07.10.2020**

**INTERIM BAIL APPLICATION**

**Bail Application No.:1391/2020**  
**State Vs Arun Kumar s/o Mahender Singh**  
**FIR No. 253/2019**  
**PS.: Prasad Nagar**  
**U/s: 406, 34 IPC**

**07.10.2020**

**Present:** Mr. Pawan Kumar, Learned Addl. PP for State through VC.  
Learned counsel for the applicant through VC.

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

**2.** Arguments heard.

**3.** It is stated by counsel that offence in question are as per the offence alleged u/s 406, 34 IPC and he may be released on interim bail in terms of criteria laid down by Hon'ble High Power Committee in the facts and circumstances of the present case.

**4.** On the other hand, interim bail application is opposed including by learned counsel for complainant stating that in asystematic conspiracy accused and other committed the offence in question. Further reply has been filed by the IO. It is stated that

offence is heinous in nature and he is member of big syndicate.

**5.** Section 406 IPC is punishable upto 03 years. In view of the directions by Hon'ble High Court, dated 07/04/2020, case of the accused is covered under such directions as maximum punishment is 3 years. Further, accused is in JC for more than fifteen days at present.

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

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

- i)** applicant shall not flee from the justice;
- ii)** applicant shall not tamper with the evidence;
- iii)** applicant shall not threaten or contact in any manner to the prosecution witnesses ,
- iv)** applicant shall not leave country without permission;
- v)** applicant shall convey any change of address immediately to the IO and the court;
- vi)** applicant shall also provide his/her mobile number to the IO;
- vii)** applicant shall mark his /her attendance before

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concerned IO (and if IO is not available then to concerned SHO) every alternative /second day through mobile by sharing his/her location with the SHO concerned;

**viii)** applicant shall further make a call, preferably by audio plus video mode to concerned IO, (and if IO is not available then to concerned SHO) once a week, preferably on Monday between 10 a.m. to 5 p.m.

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

**7.** The present application stands disposed off accordingly. Both sides are at liberty to collect the order dasti or through electronic mode. **Further a copy of this order be sent to the IO/SHO concerned by electronic mode. Further, a copy of this order be sent to concerned Jail Superintendent.**

NAVEEN KUMAR  
KASHYAP

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NAVEEN KUMAR KASHYAP  
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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/Delhi/07/10/2020**

**Anticipatory Bail**

**Bail Matters No.: 1409/2020  
State Vs Kishan @ Kalu  
FIR No. : 214/2020  
PS: Karol Bagh  
U/S: 324, 326 IPC**

**07/10/2020**

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Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.  
Mr. M.S. Dabas, learned counsel for Accused through VC.

1. Vide this order, anticipatory bail application dated 25/09/2020 under section 438 Cr.P.C. on behalf of accused filed through counsel is disposed off.

2. In the present case, In the present case, it is submitted on behalf of the accused that accused has not inflicted any injury to the complainant and during scuffle, complainant was hit with the door due to which he received injury on his person. it is further vehemently argued that the matter has been amicably settled between the complainant and the accused as both the known to each other and as accused is now feeling sorry and complainant has decided to forgive him without any pressure. Even the affidavit of this complainant is filed to this effect. It is further submitted that IO of the present case is calling to the applicant to come to Police Station. As such there is likelihood that he will be arrested and join such investigation. It is further submitted that he is a government servant and only bread earner of the family. That he does not have

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U/S: 324, 326 IPC**

any previous conviction record. That he is having permanent resident of Delhi. That he is ready to join investigation as and when is directed. As such, it is prayed that he be granted anticipatory bail with direction to the IO / SHO to release him on bail in the event of his arrest in the present case.

3. On the other hand, reply is filed by the IO as also argued by learned Addl.PP for the State that present applicant / accused suddenly came at the spot of incident and started abusing to the complainant. The complainant tried to pacify him as the accused is known to his father. But instead the present accused hit the complainant / victim on his right hand by known sharp thing as a result of which complainant had to be shifted to hospital. During MLC the nature of injury was found to be grievous. As such, section 326 IPC was also added. Thereafter, notice was given to present accused to join investigation but same could not be served to him and same was received by his surety Panna Lal. It is further strongly argued that if he is granted anticipatory bail, he may influence the witnesses and affect the investigation. In fact, it is argued by learned Addl.PP that filing of such compromise affidavit by the complainant in itself is the indication that he is already influencing the witness / victim. It is further stated that section 326 IPC is neither compoundable nor bailable. As such, present anticipatory bail is strongly opposed.

4. At this stage it may be noted that in the case of **Bhadresh Bipinbhai Sheth Vs. State Of Gujarat & Another**( Criminal Appeal Nos. 1134-1135 Of 2015, Arising Out Of Special Leave Petition (Crl.) Nos. 6028-6029 Of 2014), Hon'ble SC discussed

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and reviews the law relating to section 438 Cr.P.C.

5. A judgment which needs to be pointed out is a Constitution Bench Judgment of this Court in the case Gurbaksh Singh Sibbia and Other vs. State of Punjab( 1980 AIR 1632 ; 1980 SCR(3) 383), The Constitution Bench in this case emphasized that provision of anticipatory bail enshrined in [Section 438](#) of the Code is conceptualised under [Article 21](#) of the Constitution which relates to personal liberty. Therefore, such a provision calls for liberal interpretation of [Section 438](#) of the Code in light of [Article 21](#) of the Constitution. The Code explains that an anticipatory bail is a pre-arrest legal process which directs that if the person in whose favour it is issued is thereafter arrested on the accusation in respect of which the direction is issued, he shall be released on bail. The distinction between an ordinary order of bail and an order of anticipatory bail is that whereas the former is granted after arrest and therefore means release from the custody of the police, the latter is granted in anticipation of arrest and is therefore, effective at the very moment of arrest. A direction under [Section 438](#) is therefore intended to confer conditional immunity from the 'touch' or confinement contemplated by [Section 46](#) of the Code. The essence of this provision is brought out in the following manner:

“26. We find a great deal of substance in Mr Tarkunde’s submission that since denial of bail amounts to deprivation of personal liberty, the court should lean against the imposition of unnecessary restrictions on the scope of [Section 438](#), especially when no such restrictions have been imposed by the legislature in the terms of that section. [Section 438](#) is a procedural provision which is concerned with the personal liberty of the individual, who is entitled to the benefit of the presumption of innocence since he is not, on the date of his application for anticipatory bail, convicted of the

offence in respect of which he seeks bail. An over-generous infusion of constraints and conditions which are not to be found in [Section 438](#) can make its provisions constitutionally vulnerable since the right to personal freedom cannot be made to depend on compliance with unreasonable restrictions. The beneficent provision contained in [Section 438](#) must be saved, not jettisoned. No doubt can linger after the decision in [Maneka Gandhi v. Union of India](#), (1978) 1 SCC 248, that in order to meet the challenge of [Article 21](#) of the Constitution, the procedure established by law for depriving a person of his liberty must be fair, just and reasonable. [Section 438](#), in the form in which it is conceived by the legislature, is open to no exception on the ground that it prescribes a procedure which is unjust or unfair. We ought, at all costs, to avoid throwing it open to a Constitutional challenge by reading words in it which are not to be found therein.”

6. Though the Court observed that the principles which govern the grant of ordinary bail may not furnish an exact parallel to the right to anticipatory bail, still such principles have to be kept in mind, namely, the object of bail which is to secure the attendance of the accused at the trial, and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise, bail is not to be withheld as a punishment. The Court has also to consider whether there is any possibility of the accused tampering with evidence or influencing witnesses etc. Once these tests are satisfied, bail should be granted to an undertrial which is also important as viewed from another angle, namely, an accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in

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custody. Thus, grant or non-grant of bail depends upon a variety of circumstances and the cumulative effect thereof enters into judicial verdict. The Court stresses that any single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail. After clarifying this position, the Court discussed the inferences of anticipatory bail in the following manner:

“31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant’s presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and “the larger interests of the public or the State” are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was

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pointed out in [The State v. Captain Jagjit Singh](#), AIR 1962 SC 253 : (1962) 3 SCR 622 : (1962) 1 Cri LJ 216, which, though, was a case under the old [Section 498](#) which corresponds to the present [Section 439](#) of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.”

7. It is pertinent to note that while interpreting the expression “may, if it thinks fit” occurring in [Section 438\(1\)](#) of the Code, the Court pointed out that it gives discretion to the Court to exercise the power in a particular case or not, and once such a discretion is there merely because the accused is charged with a serious offence may not by itself be the reason to refuse the grant of anticipatory bail if the circumstances are otherwise justified. At the same time, it is also the obligation of the applicant to make out a case for grant of anticipatory bail. But that would not mean that he has to make out a “special case”. The Court also remarked that a wise exercise of judicial power inevitably takes care of the evil consequences which are likely to flow out of its intemperate use.

8. Another case to which can be referred to is the judgment of a Division Bench of this Court in the case of [Siddharam Satlingappa Mhetre v. State of Maharashtra and Others](#)( SLP(CRL.) 7615/2009 DATED 02-12-2021).This case lays down an exhaustive commentary of [Section 438](#) of the Code covering, in an erudite fashion,

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almost all the aspects and in the process relies upon the aforesaid Constitution Bench judgment in Gurbaksh Singh's case. In the very first para, the Court highlighted the conflicting interests which are to be balanced while taking a decision as to whether bail is to be granted or not, as is clear from the following observations:

“1. ....This appeal involves issues of great public importance pertaining to the importance of individual's personal liberty and the society's interest. Society has a vital interest in grant or refusal of bail because every criminal offence is the offence against the State. The order granting or refusing bail must reflect perfect balance between the conflicting interests, namely, sanctity of individual liberty and the interest of the society. The law of bails dovetails two conflicting interests, namely, on the one hand, the requirements of shielding society from the hazards of those committing crimes and potentiality of repeating the same crime while on bail and on the other hand, absolute adherence to the fundamental principle of criminal jurisprudence regarding presumption of innocence of an accused until he is found guilty and the sanctity of individual liberty.....”

9. The principles which can be culled out can be stated as under:

(i) The complaint filed against the accused needs to be thoroughly examined, including the aspect whether the complainant has filed a false or frivolous complaint on earlier occasion. If the connivance between the complainant and the investigating officer is established then action be taken against the investigating officer in accordance with law.

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(ii) The gravity of charge and the exact role of the accused must be properly comprehended. Before arrest, the arresting officer must record the valid reasons which have led to the arrest of the accused in the case diary. In exceptional cases, the reasons could be recorded immediately after the arrest, so that while dealing with the bail application, the remarks and observations of the arresting officer can also be properly evaluated by the court.

(iii) It is imperative for the courts to carefully and with meticulous precision evaluate the facts of the case. The discretion to grant bail must be exercised on the basis of the available material and the facts of the particular case. In cases where the court is of the considered view that the accused has joined the investigation and he is fully cooperating with the investigating agency and is not likely to abscond, in that event, custodial interrogation should be avoided. A great ignominy, humiliation and disgrace is attached to arrest. Arrest leads to many serious consequences not only for the accused but for the entire family and at times for the entire community. Most people do not make any distinction between arrest at a pre-conviction stage or post-conviction stage.

(iv) There is no justification for reading into [Section 438 CrPC](#) the limitations mentioned in [Section 437 CrPC](#). The plenitude of [Section 438](#) must be given its full play. There is no requirement that the accused must make out a “special case” for the exercise of the power to grant anticipatory bail. This virtually, reduces the salutary power conferred by [Section 438 CrPC](#) to a dead letter. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints and conditions on his freedom, by the acceptance of conditions which the court may deem fit to impose, in consideration of the assurance that if

arrested, he shall be enlarged on bail.

(v) The proper course of action on an application for anticipatory bail ought to be that after evaluating the averments and accusations available on the record if the court is inclined to grant anticipatory bail then an interim bail be granted and notice be issued to the Public Prosecutor. After hearing the Public Prosecutor the court may either reject the anticipatory bail application or confirm the initial order of granting bail. The court would certainly be entitled to impose conditions for the grant of anticipatory bail. The Public Prosecutor or the complainant would be at liberty to move the same court for cancellation or modifying the conditions of anticipatory bail at any time if liberty granted by the court is misused. The anticipatory bail granted by the court should ordinarily be continued till the trial of the case.

(vi) It is a settled legal position that the court which grants the bail also has the power to cancel it. The discretion of grant or cancellation of bail can be exercised either at the instance of the accused, the Public Prosecutor or the complainant, on finding new material or circumstances at any point of time.

(vii) In pursuance of the order of the Court of Session or the High Court, once the accused is released on anticipatory bail by the trial court, then it would be unreasonable to compel the accused to surrender before the trial court and again apply for regular bail.

(viii) Discretion vested in the court in all matters should be exercised with care and circumspection depending upon the facts and circumstances justifying its exercise. Similarly, the discretion vested with the court under [Section 438 CrPC](#) should also be exercised with caution and prudence. It is unnecessary to travel beyond it and subject

the wide power and discretion conferred by the legislature to a rigorous code of self-imposed limitations.

(ix) No inflexible guidelines or straitjacket formula can be provided for grant or refusal of anticipatory bail because all circumstances and situations of future cannot be clearly visualised for the grant or refusal of anticipatory bail. In consonance with legislative intention, the grant or refusal of anticipatory bail should necessarily depend on the facts and circumstances of each case.

(x) The following factors and parameters that need 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 properly comprehended before arrest is made;

(b) The antecedents of the applicant including the fact as to whether 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 accusations 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 overimplication 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 event 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.

10. In the present case there are specific and serious allegations against the present accused. Further, section 326 IPC is non compoundable in nature. Further injury is grievous in nature and accused is named in the FIR by the complainant with specific role of the accused and the manner in which accused committed the present offence. Further, offence u/s 326 IPC is punishable upto

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imprisonment for life. Further, under the present facts and circumstances, there is so possibility that he may influence the witness including the victim. It further appears that he is not cooperating with the investigation. As such, this court is not inclined at this stage to grant the relief sought in the present application. With these observation, present application is dismissed.

11. Both the sides are at liberty to collect order through electronic mode. Further, a copy of this order be sent to concerned IO / SHO. Further, copy of this order be uploaded on website.

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**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central/Delhi/06/10/2020)**

**Bail Matters No.: 1409/2020**  
**State Vs Kishan @ Kalu**  
**FIR No. : 214/2020**  
**PS: Karol Bagh**  
**U/S: 324, 326 IPC**



**Bail Matters No.: 1287, 1289 & 1290/2020,  
State Vs Rajeev Sharma, Ashok Kumar Sharma & Krishna Sharma @ Krishna Devi  
FIR No. :180/2019  
PS:Rajinder Nagar  
U/S: 498A, 406, 34 IPC**

**07/10/2020**

**One of the steno is quarantined.**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.  
Complainant in person with counsel Mr. Jaikush Hoon through VC.  
Mr. Ashu Bhatia, learned counsel for all three applicants / accused through VC.

These are anticipatory bail applications moved on behalf of husband, mother in law and father in law through counsel.

Arguments in detail heard for over half an hour.

Put up for further arguments including regarding filing of list of articles as per the claim of complainant ,List of admitted articles as per the accused. Further IO is directed to appear in person through VC with case file on the next date of hearing including regarding present status of the investigation in question.

*Under these circumstances, without commenting upon the merits of the present application, IO is directed not to take any coercive action against all these three applicants / accused till the next date of hearing, provided they will fully cooperate in the investigation.*

Put up for **15/10/2020**.

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**ASJ-04/Central/07.10.2020**

**Bail Matters No.:1453/2020**  
**State Vs Karan @ Ritik**  
**FIR No. :333/2020**  
**PS: Sarai Rohilla**  
**U/S: 356, 379 IPC**

**07/10/2020**

**One of the steno is quarantined.**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.  
Mr. Rishi Saini, learned counsel for the applicant / accused through VC.

An application u/s 438 Cr.PC filed by applicant through counsel.

Reply filed by IO Samander / HC PS Sarai Rohilla.

Part arguments in detail heard.

Put up for further arguments and appropriate order for **16/10/2020**. In the meanwhile, accused / applicant Karan @ Ritik undertakes to join investigation and appear before the IO / SHO concerned on 09/10/2020 at around 12:00 Noon and thereafter as and when directed by the IO / SHO concerned.

As such, IO / SHO concerned is directed not to take any coercive action against the accused provided he shall join the investigation accordingly.

A copy of this order be sent to IO / SHO concerned. Further learned counsel for the applicant is at liberty to obtain copy of this order through electronic mode.

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**ASJ-04/Central/07.10.2020**

**Bail Matters No.:1408/2020  
State Vs Lalit @ Aniket  
FIR No. :12296/2020  
PS:Rajinder Nagar**

**07/10/2020**

**One of the steno is quarantined.**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.  
Learned counsel for the applicant through VC.

Part arguments heard in detail.

Put up for further arguments including filing of bail orders of co-accused Ritik  
on the next date of hearing.

Issue notice to IO to file bail order. Further, learned counsel for applicant /  
accused is also at liberty to file such copy of order.

Put up for **16/10/2020**.

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**(Naveen Kumar Kashyap)  
ASJ-04/Central/07.10.2020**

**Bail Matters No.: 1449/2020**  
**State Vs Rajesh @ Barfi**  
**FIR No. :340/2012**

**07/10/2020**

**One of the steno is quarantined.**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.  
Mr. Akhil Tarun Goel, learned counsel for the applicant / accused through VC.

This is an application seeking regular bail.

Arguments heard in detail.

Let Trial Court Record be called for the next date of hearing at the time of further arguments and orders on the present regular bail application.

Put up for **12/10/2020**. Ahlmad is directed to do the needful accordingly. TCR be summoned for the next date of hearing.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**

**State vs Gaurav Chauhan & others**  
**(Application of Shahi Ram)**  
**FIR No.199/2009**  
**P. S. Kashmere Gate**  
**U/s: 364A, 120B, 34 IPC**

**07.10.2020**

**This court is also discharging bail roster duty. Further, one of the steno is quarantined.**

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

Mr. Lokesh Chandra, learned counsel for accused through VC.

Reply already filed by the IO.

Arguments heard.

Put up for further arguments including regarding the bail and the basis of which interim bail granted to co-accused.

Put up for further arguments, clarification and orders for **08/10/2020**.

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**ASJ-04/Central/07.10.2020**

**State vs Mahesh @ Mannu**  
**(Application for grant of medical facility)**  
**FIR No. 699/2014**  
**P. S. Karol Bagh**  
**U/s: 302, 201 IPC**

**07.10.2020**

**This court is also discharging bail roster duty. Further, one of the steno is quarantined.**


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

An application for granting medical facility dated 11/09/2020 already filed by the applicant through counsel.

Reply not filed by the Jail Superintendent concerned. Still in the interest of justice, issue fresh notice to concerned Jail Superintendent, Jail No.3 to file medical status report of such accused positively by the next date of hearing.

Put up for **12/10/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**

**State vs Mahesh @ Mannu**  
**(Application for grant of interim bail)**  
**FIR No. 699/2014**  
**P. S. Karol Bagh**  
**U/s: 302, 201 IPC**

**07.10.2020**

**This court is also discharging bail roster duty. Further, one of the steno is quarantined.**

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

An application for granting medical facility dated 21/09/2020 already filed by the applicant through counsel.

Reply filed.

Arguments in detail heard.

Put up for orders with the case file for **12/10/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**

**State vs Mohd. Kadir**  
**(Application of Mohd. Kadir)**  
**FIR No. 364/2014**  
**P. S. Sadar Bazar**  
**U/s: 302 IPC**

**07.10.2020**

**This court is also discharging bail roster duty. Further, one of the steno is quarantined.**

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

Mr. S.N. Shukla, Learned counsel for the applicant through VC.

Reply filed by the IO. Copy supplied to the learned counsel for the accused Mr. S.N. Shukla.

Reply also filed by the concerned Jail Superintendent at this stage. Copy of the same be supplied during the course of the day through e-mail of such counsel for the accused by the concerned court staff. As per such reply by Jail dated 06/10/2020, conduct of such accused is unsatisfactory.

Put up for arguments in this respect and for further appropriate order for **15/10/2020.**

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**



**SC No.: 17/2017**  
**FIR No.:339/2016**  
**PS:Darya Ganj**  
**State Vs Rahul Sharma & others**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

In view of the above-mentioned orders/directions, file is taken up through Webex.

**07.10.2020**

**Further, this court is also discharging bail Roster duty till further orders. Further, one of the steno is quarantined.**

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

Accused Rahul Sharma produced from JC from Jail No.4 through VC.

Mr. Anveesh Saran, learned counsel for accused Raghav Jha through VC.

Mr. Akhilesh Kamle, learned counsel for accused Kishan Kumar through VC alongwith accused through VC.

Both such accused are on regular bail.

Mr. J.S. Mishra, learned counsel for accused Noori through VC.

Put up for purpose already fixed / arguments / orders on the pending application for **12/10/2020**.

Accused Rahul Sharma be produced from JC on the next date of hearing. Issue production warrant for accused Rahul Sharma on the next date of hearing accordingly.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**

**CR No. 817/2018**  
**Nathan Chaudhary vs State & Ors**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

In view of the above-mentioned orders/directions, file is taken up through Webex.

**07.10.2020**

**Further, this court is also discharging bail Roster duty till further orders.**

**Further, one of the steno is quarantined.**

Present: None for the revisionist.

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

Mr. Anurag Malik, learned counsel for respondent no.2.

Put up for compliance of previous effective order afresh. Further, put up for appearance of revisionist also on the next date of hearing.

Put up for **17/02/2021**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**

**CR No.: 510/2019**  
**Ramesh Gandhi Vs Sudesh Sethi**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

In view of the above-mentioned orders/directions, file is taken up through Webex.

**07.10.2020**

**Further, this court is also discharging bail Roster duty till further orders.**

**Further, one of the steno is quarantined.**

Present: None.

Put up for purpose fixed / arguments in terms of previous order for **15/02/2021**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**

**CR No.: 163/2020**  
**Vijay Ahuja Vs State of NCT of Delhi & Anr**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

In view of the above-mentioned orders/directions, file is taken up through Webex.

**07.10.2020**

**Further, this court is also discharging bail Roster duty till further orders.**

**Further, one of the steno is quarantined.**

Present: Learned counsel for the revisionist through VC.

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

Heard.

Put up for further appropriate orders / further proceedings for **12/10/2020** i.e. the physical hearing date of this court. Interim order to continue till the next date of hearing.

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Date: 2020.10.07 17:06:03  
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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**

**CR No. 166/2020**  
**Anurag Goel Vs State**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

In view of the above-mentioned orders/directions, file is taken up through Webex.

**07.10.2020**

**Further, this court is also discharging bail Roster duty till further orders.**

**Further, one of the steno is quarantined.**

Present: Mr. Vikas Arora, learned counsel for revisionist.

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

Put up for purpose fixed / further proceedings for **16/10/2020**. In the meanwhile, issue fresh notice for calling of Trial Court Record on the next date of hearing.

Ahlmad is directed to do the needful accordingly.

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Date: 2020.10.07 17:06:20  
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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**

**SC No.: 323/2019**  
**FIR No.:134/2018**  
**PS: Subzi Mandi**  
**State Vs Pramod Kumar**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

In view of the above-mentioned orders/directions, file is taken up through Webex.

**07.10.2020**

**Further, this court is also discharging bail Roster duty till further orders.**

**Further, one of the steno is quarantined.**

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

None for accused Pramod Kumar.

Complainant through VC with proxy counsel.

It is stated by the proxy counsel appearing for complainant that main counsel is not available. As such, he seeks adjournment on behalf of complainant. The same is noted.

Put up for purpose fixed / arguments in terms of previous order for **15/02/2021**.

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Date: 2020.10.07 17:06:38  
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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**

**SC No.: 74/2020**  
**FIR No.:170/2019**  
**PS:Lahori Gate**  
**State Vs Zuhaid @ Makku @ Danish**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

In view of the above-mentioned orders/directions, file is taken up through Webex.

**07.10.2020**

**Further, this court is also discharging bail Roster duty till further orders.**

**Further, one of the steno is quarantined.**

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

Mr. Sandeep Yadav, learned counsel for the accused through VC.

Accused is stated to be on bail in this case.

Put up for arguments / purpose fixed for **16/02/2021**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**

**SC No.: 27195/2016**  
**FIR No.:162/2011**  
**PS:Kotwali**  
**State Vs Ishwar & others**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

In view of the above-mentioned orders/directions, file is taken up through Webex.

**07.10.2020**

**Further, this court is also discharging bail Roster duty till further orders.**

**Further, one of the steno is quarantined.**

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

None for accused.

It is stated that this is one of the two oldest matters pending in this court. As such, issue court notice to all the counsel for the accused persons through electronic mode. Further issue production warrant to the accused persons who are in JC through VC for the next date of hearing.

Put up for the purpose already fixed for **10/11/2020**.

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Date: 2020.10.07 17:07:17  
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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**



SC No.: 27921/2016  
FIR No.:799/2014  
PS: Darya Ganj  
State Vs Devender Kumar @ Sanjay & Anr

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

In view of the above-mentioned orders/directions, file is taken up through Webex.

**07.10.2020**

**Further, this court is also discharging bail Roster duty till further orders.**

**Further, one of the steno is quarantined.**

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

Ms. Meenakshi, learned counsel for accused No.2 Vinay @ Monty through VC.

Accused Vinay @ Monty is on interim bail.

Issue production warrant for the accused who is in JC for the next date of hearing. Also issue notice to two of the material witnesses for the next date of hearing.

Put up for PE in terms of previous order **19/02/2021**.

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Date: 2020.10.07  
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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**

SC No.: 27787/2016  
FIR No.:215/2014  
PS:NDRS  
State Vs Liyakat Ali & others

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

In view of the above-mentioned orders/directions, file is taken up through Webex.

**07.10.2020**

**Further, this court is also discharging bail Roster duty till further orders.**

**Further, one of the steno is quarantined.**

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

Mr. Yatinder Kumar, learned LAC for accused Govind.

None for other accused persons.

In the interest justice, no adverse order is passed in the present case. Issue production warrant for the accused who are in JC for the next date of hearing. Also issue notice to two of the material witnesses for the next date of hearing.

Put up for PE in terms of previous order **19/02/2021**.

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Date: 2020.10.07  
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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**

**SC No.: 28213/2016**  
**FIR No.:279/2010**  
**PS: Timar Pur**  
**State Vs Shokeen & others**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

In view of the above-mentioned orders/directions, file is taken up through Webex.

**07.10.2020**

**Further, this court is also discharging bail Roster duty till further orders. Further, one of the steno is quarantined.**

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

None for accused.

In the interest justice, no adverse order is passed in the present case. Issue production warrant for the accused who are in JC for the next date of hearing. Also issue notice to two of the material witnesses for the next date of hearing.

Put up for PE in terms of previous order **19/02/2021**.

NAVEEN  
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(Naveen Kumar Kashyap)  
ASJ-04/Central/07.10.2020

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Date: 2020.10.07  
17:08:16 +05'30'

**SC No.: 28909/2016**  
**FIR No.:231/2016**  
**PS: Sadar Bazar**  
**State Vs Sanjay**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

In view of the above-mentioned orders/directions, file is taken up through Webex.

**07.10.2020**

**Further, this court is also discharging bail Roster duty till further orders.**

**Further, one of the steno is quarantined.**

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

None for accused.

In the interest justice, no adverse order is passed in the present case. Issue production warrant for the accused who are in JC for the next date of hearing. Also issue notice to two of the material witnesses for the next date of hearing.

Put up for PE in terms of previous order 20/02/2021.

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Date: 2020.10.07  
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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**

**SC No.: 750/2017**  
**FIR No.:255/2017**  
**PS:Pahar Ganj**  
**State Vs Manoj Kumar Baghel**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

In view of the above-mentioned orders/directions, file is taken up through Webex.

**07.10.2020**

**Further, this court is also discharging bail Roster duty till further orders.**

**Further, one of the steno is quarantined.**

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

Accused Manoj Kumar Baghel stated to be on regular bail.

Mr. J.S. Mishra, LAC on behalf of such accused.

Issue notice to two of the material witnesses for the next date of hearing.

Put up for PE in terms of previous order **20/02/2021**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**

**SC No.: 404/2019**  
**FIR No.:55/2018**  
**PS: Kotwali**  
**State Vs Padam Singh**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

In view of the above-mentioned orders/directions, file is taken up through Webex.

**07.10.2020**

**Further, this court is also discharging bail Roster duty till further orders.**

**Further, one of the steno is quarantined.**

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

None for accused.

In the interest justice, no adverse order is passed in the present case. Issue production warrant for the accused who are in JC for the next date of hearing. Also issue notice to two of the material witnesses for the next date of hearing.

Put up for PE in terms of previous order **22/02/2021**.

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Date: 2020.10.07 17:09:17  
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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**

**SC No.: 407/2019**  
**FIR No.:205/2018**  
**PS: Lahori Gate**  
**State Vs Arjun Kumar & others**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

In view of the above-mentioned orders/directions, file is taken up through Webex.

**07.10.2020**

**Further, this court is also discharging bail Roster duty till further orders.**

**Further, one of the steno is quarantined.**

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

Mr. Yatinder Kumar, learned Amicus for accused Arjun through VC.

Also Mr. Deepak Kumar Gupta, learned counsel for accused through VC.

Accused Arjun stated to be in JC.

In the interest justice, no adverse order is passed in the present case. Issue production warrant for the accused who are in JC for the next date of hearing. Also issue notice to two of the material witnesses for the next date of hearing.

Put up for PE in terms of previous order **22/02/2021**.

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Date: 2020.10.07 17:09:45  
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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**

**SC No.: 755/2019**  
**FIR No.:269/2017**  
**PS: Subzi Mandi**  
**State Vs Mohit @ Nanga**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

In view of the above-mentioned orders/directions, file is taken up through Webex.

**07.10.2020**

**Further, this court is also discharging bail Roster duty till further orders.**

**Further, one of the steno is quarantined.**

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

Mr. Dhruv Bhagat, learned amicus curiae for accused No.1 through VC.

Mr. S.N. Shukla, learned Amicus curiae for accused No.2 through VC.

It is stated that accused No.1 and 2 are on bail in this case.

Issue notice to two of the material witnesses for the next date of hearing.

Put up for PE in terms of previous order **22/02/2021**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**



**CA No. 192/2019**  
**Mirajuddin Gilkar Vs Wild Life**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

In view of the above-mentioned orders/directions, file is taken up through Webex.

**07.10.2020**

**Further, this court is also discharging bail Roster duty till further orders.**

**Further, one of the steno is quarantined.**

Present: None for the appellant.

Mr. Kunal Rawat, learned counsel for respondent / Wild Life through VC.

It is stated that the arguments are already heard.

As such, put up for further orders for **16/10/2020**.

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Date: 2020.10.07 17:10:25  
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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/07.10.2020**

**EXTENSION OF INTERIM BAIL APPLICATION**

**State v. Taufiq Kala & others**  
**Interim Bail application of Saddam**  
**FIR No. 20/2016**  
**PS.: Crime Branch**  
**U.S: 364A, 395, 342, 420, 468, 471, 120B IPC**

**07.10.2020**

**Present:** Mr. Pawan Kumar, Learned Addl. PP for State through VC.  
Mr. Rashid Khan, learned counsel for accused through VC.

1. Vide this order, interim bail application dated 17/09/2020 filed by accused through counsel is disposed off.

2. It is stated that earlier he removed an application for interim bail before this court but this court was pleased to grant parole for 6 hours instead of interim bail vide order dated 16/03/2020. Again such order present applicant preferred a criminal revision No. 248/2020 before Hon'ble High Court and Hon'ble High Court was pleased to grant interim bail to the accused for 45 days. At present accused is suffering from TB since February,2020 and not fully well. Further, it is stated that he is the only bread winner of the family and has old mother and father and two children apart from wife. As such, it is prayed that he be granted interim bail for 45 days.

3. Arguments heard from both the sides and I have gone through the record.

4. At this stage it may be noted that Full bench of Hon'ble High Court of Delhi in its order dated 13/07/2020 in W.P.(C) 3037/2020 titled as "Court on its own motion v. Govt. of NCT of Delhi & Anr. Held as under :

".....5. In view of the above, we hereby further extend the implementation of the directions contained in our order dated

**State v. Taufiq Kala & others**  
**Interim Bail application of Saddam**  
**FIR No. 20/2016**  
**PS.: Crime Branch**  
**U.S: 364A, 395, 342, 420, 468, 471, 120B IPC**

25th March, 2020 and 15th May, 2020 and 15th June, 2020, till 31st August, 2020 with the same terms and conditions.

6. The Hon'ble Single Bench of this Court in CrI.A.193/2020 titled as Harpreet Singh vs. State vide order dated 1st July, 2020 sought clarification to the following effect:

“7. The queries that the Hon'ble Full Bench may consider and decide for the guidance of all concerned are as follows:

a. Whether the orders made by the Hon'ble Full Bench in W.P. (C) No.3037/2020, **including last order dated 15.06.2020**, apply to all interim orders, whether made in civil or criminal matters, and regardless of whether such orders were made on or before 16.03.2020 or thereafter?

b. Where interim bail or interim suspension of sentence has been granted by a Bench of this court exercising discretion and based upon specific facts and circumstances of a given case, would such orders also stand automatically extended by operation of orders made by the Full Bench in W.P.(C) No.3037/2020?

8. While deciding the issue, the Hon'ble Full Bench may consider the aspect of parity, namely that, on a plain reading of the orders in W.P.(C) No.3037/2020, interim orders granted on or before 16.03.2020 appear to be getting extended by general directions; but those made after 16.03.2020 appear not to be covered thereby.”

7. In this regard, we make it clear that all the directions issued from time to time in this case are based on the ongoing pandemic situation in Delhi. So far as the criminal matters are concerned, these directions have been issued keeping in view the fact that the jail authorities have limited space to keep the inmates and in case of spread of Covid-19 pandemic in the jail, it would not be in a position to maintain physical distancing amongst jail inmates. Looking to this aspect and the possible threat of spreading of viral infection by those persons who are on interim bail/bail/parole granted by this Court **or the Courts subordinate to this Court**, to other inmates of the jail on their return to the jail, the decision of extension of interim bail/bail/parole has been taken from time to time. ***It is clarified that this order of extension of bail/interim bail/parole shall be applicable to all undertrials/ convicts, who are on bail/interim bail or parole as on date irrespective of the fact that they were released on bail/interim bail or parole before or after 16th March, 2020.***

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9. List this matter on 24th August, 2020 for further directions. ....”.

5. In this background read with the order dated 22/07/2020 passed regarding the present accused regarding interim bail by Hon’ble High Court and the facts stated in the present interim bail, he is granted interim bail till 31/10/2020 on the same terms and conditions in which he was granted interim bail by Hon’ble High Court vide order dated 22/07/2020 in CrI. Revision petition No. 248/2020.

6. Both sides are at liberty to collect the order through electronic mode. **A copy of this order be sent to Jail Superintendent concerned.** Further, a copy of this order be sent to IO / SHO concerned.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/THC**  
**07.10.2020**

**SC No.: 586/2019**  
**FIR No.: 135/2019**  
**PS Nabi Karim**  
**State vs Akash @Akki & others (Vinay s/o Babu Lal)**

**07.10.2020**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

**This court is also discharging Bail Roster duty.**

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

File taken up today as a letter dated 06/10/2020 received from Dy. Jail Superficial Jail No.3 Tihar Jail, Delhi regarding whether the accused Vinay s/o Babu Lal is on bail or not in the present case.

Record perused. As per, order dated 25/11/2019, such accused was granted regular bail by my learned Predecessor on furnishing of personal bond and surety bond in the sum of Rs. 40,000/- each. But as per record, he has failed to furnish such bail bond so far. As such, he cannot be released on regular bail as condition of the same not complied so far.

But, there is subsequent order dated 13/05/2020 passed by learned bail duty Session Judge during lockdown vide which he was granted interim bail for a period of 45 days on furnishing personal bond to the satisfaction of concerned Jail Superintendent and thereafter there are certain directions by the Hon'ble High Court in writ petition bearing No. 3037 / 2020 extending certain interim bail till 31/10/2020.

It is clarified accordingly.

NAVEEN KUMAR  
KASHYAP  
(Naveen Kumar Kashyap)  
ASJ-04/Central/07.10.2020

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