

**IN THE COURT OF SH. SUNIL BENIWAL
ASJ/SPECIAL JUDGE (NDPS), WEST
TIS HAZARI COURTS, DELHI**

**FIR No. 78/20
PS: Crime Branch
U/s 22/25 NDPS Act
State Vs. Pawan Arora**

30.07.2020

Present: Mr. Parvesh Ranga, Ld. Addl. PP for the State through video conferencing.

Mr. Nitin Joshi, counsel for applicant through video conferencing.

Part arguments heard from both the sides.

Put up for further arguments on **10.08.2020**.

IO is directed to appear alongwith case diary and other relevant record pertaining to this case, on the next date.

**(SUNIL BENIWAL)
ASJ/Special Judge (NDPS)
West District, THC
Delhi/30.07.2020**

**IN THE COURT OF SH. SUNIL BENIWAL
ASJ/SPECIAL JUDGE (NDPS), WEST
TIS HAZARI COURTS, DELHI**

**FIR No. 344/18
PS: Kirti Nagar
U/s 365/392/395/412/34 IPC
State Vs. Ajay Yadav**

30.07.2020

Present: Mr. Parvesh Ranga, Ld. Addl. PP for the State through video conferencing.

Mr. Sanjay Kumar, counsel for applicant through video conferencing.

Part arguments heard from both the sides.

Put up for further arguments on **10.08.2020**.

On request of counsel, IO as well as Jail Superintendent are directed to file report as to how many cases are pending against the accused.

(SUNIL BENIWAL)
ASJ/Special Judge (NDPS)
West District, THC
Delhi/30.07.2020

**IN THE COURT OF SH. SUNIL BENIWAL
ASJ/SPECIAL JUDGE (NDPS), WEST
TIS HAZARI COURTS, DELHI**

**FIR No. 538/18
PS: Tilak Nagar
U/s 21/25/29 NDPS Act
State Vs. Ankit @ Tiger**

30.07.2020

Present: Mr. Parvesh Ranga, Ld. Addl. PP for the State through video conferencing.

Surety Gaganpuri is present with Mr. Himanshu Verma, advocate.

Surety submits that he is relative of accused. So, IO is directed to verify the said fact whether the surety is relative of accused or not and to file his report alongwith documentary proof.

At this stage, Mr. Himanshu Verma, counsel for surety submits that he wishes to withdraw the surety bond with liberty to furnish fresh surety as per the satisfaction of the court. Heard. Allowed.

In view of the submission, bail bond stands withdrawn. Let the bail bond be tagged with the main file.

(SUNIL BENIWAL)
ASJ/Special Judge (NDPS)
West District, THC
Delhi/30.07.2020

**IN THE COURT OF SH. SUNIL BENIWAL
ASJ/SPECIAL JUDGE (NDPS), WEST
TIS HAZARI COURTS, DELHI**

**FIR No. 267/19
PS: Hari Nagar
U/s 302 IPC
State Vs. Keemat Singh**

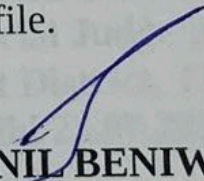
30.07.2020

Present: Mr. Parvesh Ranga, Ld. Addl. PP for the State through video conferencing.

Ahlmad of this court has telephonically contacted counsel for the applicant, who requested for an adjournment for the date already fixed in the regular case i.e. 22.09.2020.

Request allowed.

Put up on **22.09.2020** alongwith case file.


**(SUNIL BENIWAL)
ASJ/Special Judge (NDPS)
West District, THC
Delhi/30.07.2020**

**IN THE COURT OF SH. SUNIL BENIWAL
ASJ/SPECIAL JUDGE (NDPS), WEST
TIS HAZARI COURTS, DELHI**

**FIR No. 247/17
PS: Ranjeet Nagar
U/s 392/397/34 IPC
State Vs. Aas Mohd. @ Aashu**

30.07.2020

Present: Mr. Parvesh Ranga, Ld. Addl. PP for the State through video conferencing.

Report regarding health condition of accused not received. Let the same be called from Jail Superintendent and concerned Medical Superintendent (jail), for **04.08.2020**.

**(SUNIL BENIWAL)
ASJ/Special Judge (NDPS)
West District, THC
Delhi/30.07.2020**

**IN THE COURT OF SH. SUNIL BENIWAL
ASJ/SPECIAL JUDGE (NDPS), WEST
TIS HAZARI COURTS, DELHI**

**FIR No. 173/13
PS: Paschim Vihar
U/s 307 IPC
State Vs. Vikas @ Vicky @ Ganja**

30.07.2020

Present: Mr. Parvesh Ranga, Ld. Addl. PP for the State through video conferencing.

Ahlmad of the court has telephonically contacted counsel for applicant Sh. Kapil Yadav who seeks adjournment.

On request of Ld. Counsel, put up for arguments on **07.08.2020**.

**(SUNIL BENIWAL)
ASJ/Special Judge (NDPS)
West District, THC
Delhi/30.07.2020**

**IN THE COURT OF SH. SUNIL BENIWAL
ASJ/SPECIAL JUDGE (NDPS), WEST
TIS HAZARI COURTS, DELHI**

**FIR No. 173/13
PS: Paschim Vihar
U/s 307 IPC
State Vs. Vikas @ Vicky @ Ganja**

30.07.2020

Present: Mr. Parvesh Ranga, Ld. Addl. PP for the State through video conferencing.

Ahlmad of the court has telephonically contacted counsel for applicant Sh. Kapil Yadav who seeks adjournment.

On request of Ld. Counsel, put up for arguments on **07.08.2020**.

**(SUNIL BENIWAL)
ASJ/Special Judge (NDPS)
West District, THC
Delhi/30.07.2020**

**IN THE COURT OF SH. SUNIL BENIWAL
ASJ/SPECIAL JUDGE (NDPS), WEST
TIS HAZARI COURTS, DELHI**

FIR No. 137/17

PS: Khyala

**U/s 302/397/201/411/452/34 IPC
State Vs. Vikas @ Loba @ Loha**

30.07.2020

Present: Mr. Parvesh Ranga, Ld. Addl. PP for the State through video conferencing.

Ahlmad of the court has telephonically contacted counsel for applicant Sh. Rajan Bhatia, Ld. LAC who seeks adjournment.

On request of Ld. Counsel, put up for arguments on ~~07.08.2020~~.

**(SUNIL BENIWAL)
ASJ/Special Judge (NDPS)
West District, THC
Delhi/30.07.2020**

**IN THE COURT OF SH. SUNIL BENIWAL
ASJ/SPECIAL JUDGE (NDPS), WEST
TIS HAZARI COURTS, DELHI**

**FIR No. 90/20
PS: Hari Nagar
U/s 364A/392/34 IPC
State Vs. Ajay Arora**

30.07.2020

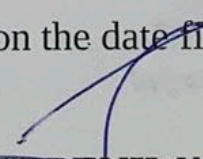
Present: Mr. Parvesh Ranga, Ld. Addl. PP for the State through video conferencing.

Mr. Ayub Ahmed Qureshi, counsel for applicant through video conferencing.

Part arguments heard from both the sides.

Put up for further arguments on **10.08.2020**.

On request of counsel, IO as well as Jail Superintendent are directed to file report regarding conduct of accused as on date, on the date fixed.


**(SUNIL BENIWAL)
ASJ/Special Judge (NDPS)
West District, THC
Delhi/30.07.2020**

**IN THE COURT OF SH. SUNIL BENIWAL
ASJ/SPECIAL JUDGE (NDPS), WEST
TIS HAZARI COURTS, DELHI**

**FIR No. 392/20
PS: Khyala
U/s 21 NDPS Act
State Vs. Usha**

30.07.2020

Present: Mr. Parvesh Ranga, Ld. Addl. PP for the State through video conferencing.

Sh. Deepak Ghai, counsel for the applicant/accused.

Report regarding medical condition of accused received. No further order is required in terms of the said report. In view of the same, the application is disposed off.

(SUNIL BENIWAL)
ASJ/Special Judge (NDPS)
West District, THC
Delhi/30.07.2020

FIR No. 369/2019
PS : Patel Nagar
U/s 392/397/411/34 IPC
State Vs. Akash @ Wasi

30.07.2020

Arguments on bail application heard through videoconferencing connected by Ahlmad of the court.

Present: Shri Parvesh Kumar Ranga, Learned Addl. Public Prosecutor for State through videoconferencing.

Shri Ayub Ahmed Qureshi, Ld. counsel for applicant/accused through videoconferencing.

By this order, I shall decide the present application requesting for grant of interim bail for a period of 45 days on the ground of Covid-19 lockdown on behalf of applicant/accused Akash @ Wasi. Facts as stated in the bail application are as follows :

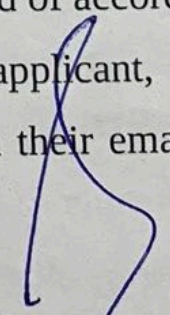
It is submitted that applicant is in judicial custody since 31.10.2019. That applicant is not a previous convict or a habitual offender. That applicant is a married person having three children. That applicant is the sole bread earner of the family. That the applicant wants to get released on interim bail for a period of 45 days on personal bond in the sum of Rs. 10,000/- as per order dated 07.04.2020 passed by Hon'ble Supreme Court and as per order of Hon'ble High Court of Delhi in the matter of **Shobha Gupta Vs. Union of India & Ors.** That the applicant is ready to abide by all the terms and conditions if bail is granted.

Learned Addl. Public Prosecutor has opposed this bail application on the ground that the applicant does not fall in the criteria laid down by Hon'ble High Powered Committee of Hon'ble High Court of Delhi vide its order dated 18.04.2020.

Ld. Additional Public Prosecutor has submitted that as per recommendations of Hon'ble High Powered Committee of Hon'ble High Court of Delhi, the applicants who are suffering from the following diseases i.e. HIV, Cancer, High Blood Sugar, Asthma and T.B be released on interim bail for a period of 45 days on furnishing a personal bond.

In the present case, the applicant is not stated to be suffering from any of these diseases even as per the report of Jail Superintendent as well as the report of IO. Moreover, apart from this fact, in view of reply of IO, the offence against the applicant in this case appears to be very strong. It is submitted that applicant is the main culprit in the present offence who has squeezed the complainant's neck. Moreover, co-accused Deepak is still absconding. Remaining amount that was robbed, is yet to be recovered. As already made clear above, the applicant does not fall within the criteria laid down by Hon'ble High Powered Committee of Hon'ble High Court of Delhi. Moreover, since the case against the applicant appears to be very strong, it is not advisable to grant interim bail to the applicant as there is strong possibility that he may jump bail, commit more offence and may try to threaten, intimidate or even harm the prosecution witnesses of the present case pending against him. Therefore, in view of the above discussions and observations, the present bail application is rejected. The application stands disposed of accordingly.

One copy of this order be sent to counsel for applicant, IO/SHO, Ld. Additional Public Prosecutor and the Jail Superintendent on their email IDs, if provided and found to be correct, through proper channels.


(SUNIL BENIWAL)
ASJ/Spl. Judge (NDPS)
West District/THC/Delhi
30.07.2020

FIR No. 78/2020
PS : Crime Branch
U/s 22/25 NDPS Act
State Vs. Chandra Shekhar

30.07.2020

Matter taken up through videoconferencing connected by Ahlmad of the court.

Present: Shri Parvesh Kumar Ranga, Learned Addl. Public Prosecutor for State through videoconferencing.

Shri Nitin Joshi, Ld. counsel for applicant/accused through videoconferencing.

By this order, I shall decide the anticipatory bail application filed on behalf of applicant Chander Shekhar. Facts as stated in the bail application are as follows :

It is submitted that applicant is innocent and police officials are falsely trying to implicate the applicant in the present case. It is submitted that applicant is proprietor of the firm having a valid license issued by the Department of Drugs Control. It is submitted that the recovered medicines from the applicant do not fall in Schedule X of the Drugs and Cosmetics Rules but is mentioned in Schedule H1. It is submitted that at most only offence under the 18 of Drugs and Cosmetics Act, 1940 is made out and no offence under the NDPS Act is made out. It is submitted that the seized medicines are well documented. It is submitted that the seized medicines are not misbranded, adulterous or spurious. It is submitted that the case of the prosecution is not a case of attempting to sell without prescription or requisite documents. It is submitted that there are no restrictions on the grant of anticipatory bail in an offence under the NDPS Act. It is submitted that the applicant is ready to join investigation as & when directed. It is submitted that the applicant is ready to

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PS : Crime Branch

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abide-by all the terms & conditions imposed by this court if anticipatory bail is granted and is also ready to furnish sound surety. It is, therefore, requested that applicant may be granted anticipatory bail U/s 438 Cr.P.C or the court may grant interim protection to applicant to join investigation.

Learned Addl. Public Prosecutor has strongly opposed the bail application in view of reply filed by the Investigating Officer. It is submitted that on the basis of secret information, a raid was conducted in the jhuggis of Kamla Nehru Camp on the intervening night of 17/18.06.2020 by team of Narcotics Cell, Crime Branch comprising of SI Rakesh Duhan and other staff. At the instance of secret informer, one Shravan Kumar was apprehended. That huge consignment of Psychotropic substance Tramadol & Nitrazepam based tablets/capsules and Codeine based syrup was recovered from the godown of Shravan Kumar where the said medicines were kept illegally and unauthorizedly by him. That present FIR registered in this case and caretaker of the godown namely Shravan Kumar was arrested.

During search of the godown, seizures were made in the presence of ACP/Narcotics Cell. Around 10.46 Lacs tablets/capsules of psychotropic substance Tramadol and Nitrazepam and 19560 bottles of Codeine Phosphate syrup, total worth around 1.80 Crores as per the MRP were seized. That the recovered case property was converted into 126 pullandas in white plastic gunny bags with the help of white cloth stripes, sealed and deposited in the malkhana of PS Crime Branch. That during inquiry at the spot, accused Shravan Kumar revealed that the medicines stored in the godown belonged to Pawan Arora and his manager Chander Shekhar. That efforts were made by SI Rakesh Kumar to contact Pawan Arora & Chander

Shekhar by making calls on their mobile phones. That during telephonic conversation which got recorded, Pawan Arora admitted that he had no document of the seized medicines and also that he had no document which authorizes him to keep said psychotropic substance based medicines in the said godown. That Chander Shekhar also kept procrastinating and neither Pawan Arora or Chandra Shekhar came at the spot despite giving ample opportunities.

That samples have been drawn from the seized case property by the Executive Magistrate and deposited at FSL, Rohini for chemical examination and expert opinion. Office of the Chief Drug Controller, Delhi, has also been intimated about the seizure in this case. That all the mandatory provisions of the NDPS Act have been duly complied with. That accused Shravan Kumar disclosed that he has two champion (LGV) vehicles through which he used to transport goods for earning livelihood. That about 6/7 months back, Pawan Arora and his Manager Shekhar Thakur took the empty room in his *jhuggi* for using it as their godown for storing medicines on a monthly rent of Rs. 7,500/- and also offered him to engage his goods carrier vehicles for bringing medicines for them from other suppliers and to transport the medicines to their customers and courier/transport companies from his godown. That he was being paid Rs. 12,000/- monthly for transporting the medicines which Pawan Arora and his manager Chandra Shekhar used to deposit in his bank account. That during investigation, applicant pointed out the house of absconding Pawan Arora and his office and raids were conducted in search of his associates Pawan Arora & Shekhar Thakur at the instance of applicant but they could not be found.

That during investigation, mobile phone of Shravan Kumar was also seized & examined. That mobile phone has several & regular 'Whatsapp Chat' of

Shravan Kumar with Pawan Arora and Chandra Shekhar. That 'chat' establishes that Shravan Kumar was working for Pawan Arora and Chandra Shekhar. That case is in preliminary stage of investigation and there are several important aspects like the firms which supplied the said medicines to Pawan Arora and further the persons or parties to whom Pawan Arora supplied the medicines adopting unfair means, bank account details and entire chain of supply is to be identified. That investigation also requires custodial joint interrogation of accused Pawan Arora and Chandra Shekhar and the applicant for having a clear picture of their respective roles in the entire matter. It is submitted that investigation conducted till date proves that applicant was associated in the crime at every stage, was in regular contact with his associate Pawan Arora, had knowledge of every unauthorized transaction under the garb of medicine trade and intention to have undue gain through illegal stock and sale of psychotropic substance based medicines thus establishing his 'culpable mental stage' which makes him liable for prosecution as per Section 35 NDPS Act. It is further submitted that huge commercial quantity of psychotropic substance based medicines was stored illegally by applicant and his associates and were being supplied for spreading drug menace.

It is submitted that as per the directions of court, on 06.07.2020 copies of Drug License and other documents were provided by Deepak Arora (brother of Pawan Arora) and Imtiyaz (assistant of Pawan Arora) which have been seized on behalf of accused Pawan Arora & Chander Shekhar. That drug license No. DL-MTN-130647 has been issued in the name of accused Chander Shekhar, proprietor of the firm Rudra Thakur Enterprises for keeping stock of medicines at A-69, DSIDC Packing Complex, 2nd Floor, Kirti Nagar, Delhi. That copy of license has been verified from the office of Deputy Drug Controller, Lawrence Road Industrial

Area, Delhi but the written report in this regard has not been received so far. That the license did not provide any valid document which authorizes him to keep the stock of medicines at the place of occurrence i.e. Jhuggi No. TH-146, Kamla Nehru Camp, Kirti Nagar, Delhi. That as per Section 62 of Drugs and Cosmetics 1940, a licensee can store & supply medicines from the place for which the license was issued. That no legal document/license could be provided by the accused persons which authorizes them to store medicines.

That the other documents i.e. 03 GST invoices of medicines purchased from Ambajee Druggists Pvt. Ltd., Paharganj, Delhi, by M/s Rudra Thakur Enterprises have also been verified from Ambajee Druggists Pvt. Ltd. Besides other medicines containing psychotropic substance, the said medicines were also seized in the present case. That some medicines were purchased from outside Delhi and invoices of some medicines could not be verified. That the admission on the part of both the accused persons through the said submitted invoices that the said medicines belonged to them proves the contents of FIR. That the connectivity of accused persons, on the basis of 'whatsapp chat' and other evidence have already been explained. That on the ground enquiry conducted near the office of Rudra Thakur Enterprises further confirmed that the said office was managed jointly by Pawan Arora and Chander Shekhar.

That in the light of above mentioned facts, legal provisions and documents on record, it is crystal clear that the accused persons Pawan Arora and Chander Shekhar in furtherance of their common ill intentions, stored huge quantity of psychotropic substance based medicines in contravention of provisions of NDPS Act as well as Drugs and Cosmetics Act which give ample grounds for their arrest, gathering of evidence and prosecution in the case.

It is further submitted that the accused persons had knowingly stored medicines in the house of accused Shravan Kumar using it as godown in contravention of Section 8 (c) NDPS Act which is offence and punishable U/s 25 of NDPS Act. That accused persons have themselves admitted before the court that the medicines recovered from unlicensed place of storage belonged to them. Hence, in view of recovery of such huge quantity of psychotropic substance based medicines, admission on the part of accused persons regarding unauthorized storage of medicines, the bail application deserves to be dismissed. It is further submitted that custodial interrogation of the accused persons is indispensable for proper investigation of the case. Hence, it is requested that the bail application may kindly be dismissed.

I have heard arguments from both the sides


In this case, the court is inclined to agree with submissions of Ld. APP. Huge quantity of drugs and medicines have been recovered from an unauthorized place. The accused persons have been running away from the IO. Investigation is in early stages. Many aspects of the investigation are yet to be investigated. It is submitted by the Ld. APP that many of the drugs that were recovered from the unauthorized godown fall under Schedule X of the NDPS Act and were also recovered in commercial quantity. It is submitted by the Ld. APP that the contraband recovered is covered by the ambit of Sections 35 and 37 of the NDPS Act. It is submitted that in the present case anticipatory bail cannot be granted as the same is hit by Section 37 NDPS Act. Moreover, co-accused persons are yet to be arrested and if bail is granted to the present applicant it would most certainly lead to hampering of the investigation which will be detrimental to the case of the prosecution at this stage.

FIR No. 78/2020
PS : Crime Branch

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After hearing arguments from both the sides, the court is also of the same opinion that granting anticipatory bail to the applicant Chandra Shekhar at this stage would lead to hampering of the investigation which may adversely affect the case of the prosecution at this stage. Moreover, Section 37 NDPS Act also comes into the picture. Therefore, in the opinion of the court, no ground is made out for grant of anticipatory bail at this stage. Therefore, present application is rejected at this stage being devoid of merits.

Copy of this order be given to all concerned through proper channel.


(SUNIL BENIWAL)
ASJ/Spl. Judge (NDPS)
West District/THC/Delhi
30.07.2020

FIR No. 443/16 (SC No. 58240/16)
PS: Patel Nagar
U/s 392/397/34 IPC
State Vs. Akshay

30.07.2020

Present: Mr. Parvesh Ranga, Ld. Addl. PP for the State through video conferencing.
Mr. R.R Jha, Ld. Counsel from Legal Aid for accused alongwith accused in person.

Final arguments heard today. After hearing final arguments, accused has been convicted for offence punishable u/s 392 IPC vide separate judgment.

Put up for arguments on sentence at 3.00 pm.

At this stage, counsel for accused has moved an application that the convict may be sentenced of the time already undergone by him.

(SUNIL BENIWAL)
ASJ/Special Judge (NDPS)
West District, THC/Delhi/30.07.2020

At 3.00 pm

Present: Mr. Parvesh Ranga, Ld. Addl. PP for the State through video conferencing.
Mr. R.R Jha, Ld. Counsel from Legal Aid for convict alongwith convict in person.

Vide separate order on sentence, the court deems it proper to sentence the convict to the imprisonment already undergone by him but subject to the condition that the convict would not indulge himself in any other offence of any nature whatsoever and shall maintain good and clean conduct in the society. For this purpose, on request of Ld. LAC and the convict himself, the bond given by the convict during trial is extended for a further period of six months and shall remain intact for another six months starting from today.

File be consigned to record room.

(SUNIL BENIWAL)
ASJ/Special Judge (NDPS)
West District, THC/Delhi/30.07.2020

**IN THE COURT OF SH. SUNIL BENIWAL
ASJ/SPECIAL JUDGE (NDPS), WEST
TIS HAZARI COURTS, DELHI**

**FIR No. 443/16 (SC No. 58240/16)
PS: Patel Nagar
U/s 392/397/34 IPC
State Vs. Akshay**

30.07.2020

Present: Mr. Parvesh Ranga, L.d. Addl. PP for the State through video conferencing.

Mr. R.R Jha, L.d. Counsel from Legal Aid for accused alongwith accused in person.

Final arguments heard today. After hearing final arguments, accused has been convicted for offence punishable u/s 392 IPC vide separate judgment.

After the sentence of conviction was pronounced, L.d. LAC has moved an application that arguments on point of sentence be heard itself as he is present with convict in the court. L.d. APP for the State has not opposed this application and request. Therefore, for the sake of convenience of everybody, let arguments on the point of sentence be heard today itself.

Counsel for convict has submitted that convict belongs to a very low strata of society and he is only bread earner of his family and has learnt a lesson. It is also submitted that apart from this case, convict has no other case, therefore, taking a lenient view especially in the present Covid-19 situation, the convict may be sentenced of the time already undergone by him. L.d. APP has submitted that keeping in view the submissions of counsel for convict, although the prosecution would pray for a higher sentence but prosecution would have no objection if the convict is released on the period of detention undergone by the convict in custody

provided that the convict assures this court that he would not indulge himself in any other offence of any nature and would not be detrimental to the peace of society.

I have heard arguments from both the sides.

Keeping in view the application moved by counsel as well as appeals made by Ld. LAC and also the point of view of prosecution in the present case, the court deems it proper to convict the accused and sentence him to the imprisonment already undergone by the convict but subject to the condition that the convict would not indulge himself in any other offence of any nature whatsoever and shall maintain good and clean conduct in the society. For this purpose, on request of Ld. LAC and the convict himself, the bond given by the convict during trial is extended for a further period of six months and shall remain intact for another six months starting from today.

Ordered accordingly.

(SUNIL BENIWAL)

ASJ/Special Judge (NDPS)

West District, THC

Delhi/30.07.2020

IN THE COURT OF SH. SUNIL BENIWAL
ADDL. SESSIONS JUDGE : SPECIAL JUDGE (NDPS)
WEST DISTRICT : TIS HAZARI COURTS : DELHI

IN THE MATTER OF:-

SESSIONS CASE No. 58240/16

FIR NO. 443/16

P.S. Patel Nagar

U/S 392/397/34 IPC

State

Versus

Akshay

S/o Sh. Laxman

R/o H.No. T-34, Road No. 20, Bheel Basti,

Baljeet Nagar, Delhi

.....ACCUSED

DATE OF INSTITUTION

: 01.12.2016

DATE OF HEARING FINAL ARGUMENTS

: 30.07.2020

DATE OF JUDGMENT

: 30.07.2020

JUDGMENT

1. This is the judgment of case titled as State vs Akshay @ Bhillad son of Mr. Laxman. Following charge was framed against the accused Akshay that on 01.08.2016 at about 10.15 pm at 26 Block, West Patel Nagar near community

center, Delhi within the jurisdiction of PS Patel Nagar, accused Akshay alongwith his associate Suraj in furtherance of their common intention robbed the complainant 'Mukul Nishad' of his Apple I phone having SIM No. 8010824431 and his wallet containing registration certificate of his vehicle number DL-10SH-2678, driving license, Aadhar Card, Voter I-card, some visiting cards and a sum of Rs.2000/2500/- at knife point and thereby committed offence under Section 392/34 IPC and within the cognizance of this court. The accused pleaded not guilty to the charge framed and claimed trial.

2. Prosecution examined ASI Kanwar Singh as PW1 who deposed that on 02.08.2016 he was working as Duty Officer at PS Patel Nagar from 12 midnight to 8 AM. On that day, at about 12.30 am, he received a rukka sent by ASI Virender Singh through Ct. Harinder. On the basis of said rukka, he got the present FIR recorded on computer. He had brought the original FIR on the day of his deposition which is a computer printout and another computerized copy which was Ex.PW1/A after seeing and returning the original. He made his endorsement on the original rukka which is Ex.PW1/B. Certificate under Section 65-B of Evidence Act is Ex.PW1/C which bears his signatures at point A. Further investigation was marked to ASI Virender Singh. Accused did not cross examine this witness despite opportunity being granted.

3. Thereafter prosecution examined Ct. Pawan Kumar as PW2 who deposed that on 09.08.2016 he was on emergency duty with ASI Virender Singh at PS Patel Nagar. He deposed that on that day, at about 9 pm, complainant Mukul Nishad came in the police station and told that the person who robbed him was present under Shadipur Metro Station at that time. Thereafter, he alongwith ASI Virender Singh and complainant reached under

Shadipur Metro Station where the complainant had pointed out towards the accused Akshay present in the court that day and correctly identified by the complainant. Accused was apprehended by them. ASI Virender had interrogated him and during interrogation he revealed his age to be below 18 years. Thereafter, ASI Virender called SI Nitesh. The father of accused was also called there on telephone. SI Nitesh prepared the relevant documents regarding apprehension of accused. Akshay was sent to observation home. This witness was cross examined by counsel for accused. His cross examination is as follows:-

4. He deposed that no separate departure entry was made while leaving the police station for spot. He voluntarily deposed that he was on emergency duty and therefore no separate entry was lodged. The complainant informed about the incident to ASI Virender. In the presence of this witness, no senior police officer was informed. They left the police station after five minutes of receiving the information from the complainant. ASI Virender did not prepare any document in his presence before leaving the police station for the spot. They reached the police station at about 9.15 pm. On the way to the spot, ASI Virender asked public persons to join the investigation near Shadipur Metro Station but none of them agreed. ASI Virender did not serve any notice to those persons who refused to join them. He had no knowledge whether CCTV cameras are installed near the spot. He deposed that the complainant pointed out the accused from a distance of about 10 to 15 meter and he alongwith ASI Virender apprehended the accused. The accused could not flee away from the spot as he was apprehended immediately. He does not remember as to who conducted the cursory search of the accused. He deposed that nothing was recovered from the possession of the accused at that time. He does not

remember how many documents were prepared by SI Nitesh at the spot. They remained at the spot for about 1 and half hour. The IO did not ask any metro station official to join the proceedings. Rest of the cross examination of this witness is insubstantial.

5. Thereafter, prosecution examined PW3 Ct. Harinder who deposed as follows:-

6. He deposed that on 01.08.2016 he was posted at PS Patel Nagar. On that day, he was on emergency duty with ASI Virender Singh. At about 11.15 pm, Duty officer informed ASI Virender Singh about DD Entry no. 33-A regarding robbery. On receiving the said information, he alongwith ASI Virender Singh went to the spot i.e. 26 Block, near community center, West Patel Nagar. There they met Sh. Mukul Nishad, the complainant who narrated the incident which was reduced into writing by ASI Virender Singh. Thereafter, rukka was prepared by ASI Virender Singh and was handed over to Ct. Harinder for registration of FIR. He returned to the police station after getting the FIR registered and handed over a copy of FIR to ASI Virender Singh. This witness was also cross examined by counsel for accused. His cross examination is as follows:-

7. He deposed that he did not make any departure entry at the police station and the distance between the spot and the police station is about 1.5 km. He deposed that the rukka was prepared alongwith the site plan in his presence and after inspection of the spot, no CCTV camera was found. Passersby were requested to join the investigation but none of them agreed. In his presence, no passerby or independent public person disclosed that the incident took place in their presence. There were street lights on the spot but

no care taker or guard was found present at the community center near the spot.

8. Thereafter, prosecution examined the complainant Mr. Mukul Nishad as PW4 who deposed as follows:-

9. He deposed that on 01.08.2016 at about 10.30 pm, he was returning to his house after getting his mobile phone recharged from the market near his house. On the way, the accused came there alongwith his other associate. The present accused Akshay was correctly identified by PW4 during his testimony in the court. He further deposed that the accused caught hold of his neck from behind and the co-accused showed him the knife by standing in front of him. He deposed that the said associate of accused Akshay also gave him fist blows. Complainant/PW4 was robbed at knife point by the accused and his associate of the following items:-

10. Mobile phone of the complainant of the make I-phone 5, his purse which was containing RC of his motorcycle DL-10SH-2678, his driving license, Aadhar Card, voter ID card, some visiting cards and cash of around Rs.2500/-.

11. After robbing him, the accused alongwith his associate fled away from the spot. After the robbery, PW4 became semi conscious but regained his consciousness within 1-2 minutes. He further deposed that the incident took place near his house. He immediately went to his house and raised alarm to his brother. On hearing the alarm, his brother came down and the complainant PW4 made a call at 100 number with the help of mobile phone of his brother. PCR officials came and they went to the police station. At the police station,

complainant narrated the incident which was reduced into writing vide his statement Ex.PW4/A which bears his signatures at point A. During his statement, he also disclosed the name of accused as Akshay. The name of the accused was disclosed by two friends of his brother who were met by the complainant on the way to his house immediately after the incident occurred. Those friends of his brother told the complainant PW4 that one of his assaulter was Akshay who was also seen by them while passing through the street after the incident. He deposed that the incident did not take place in the presence of the abovementioned friend of his brother. He deposed that the site plan was prepared after he pointed out the place of occurrence to the police. He further deposed that on 09.08.2016, he went to Shadipur for some work and was returning to his house from there at about 9 to 9.30 pm. He deposed that on the way when he reached near Shadipur Metro Station, he saw that accused was standing there by the side of the wall. Upon seeing the accused, the complainant rushed to police station Patel Nagar and was met with the IO of the case. There he told the IO about the accused. Thereafter, IO alongwith other staff went towards Shadipur Metro Station and from there accused Akshay was apprehended. He deposed that till date, his mobile phone has not been traced out.

12. This witness was cross examined at length by counsel for the accused. During his cross examination, PW4 deposed that no other public person was present at the spot when the incident occurred at around 10.30 pm. He deposed that the entire incident took place within a matter of 5-10 minutes. He deposed that the spot where the incident occurred must be at a distance of about 200 meters from his house. He deposed that the Investigating Officer had read over his statement Ex.PW4/A to the witness before the witness signed the same. He

deposed that he does not remember the name of the friend of his brother who had told him the name of the accused. He deposed that on 09.08.2016 he saw the accused near Shadipur Metro Station at about 9 to 9.30 pm at a distance of about 50 meters. He deposed that the investigating officer requested the passersby to join the proceedings but everybody refused. He deposed that it is wrong to suggest that he is deposing falsely to falsely implicate the accused.

13. Cross examination of this witness is over. Thereafter, prosecution examined ASI Virender Singh as PW5. He deposed that on 01.08.2016 he was posted at PS Patel Nagar. On that day, he was on night emergency duty with Ct. Harinder. At about 11.10 pm, the Duty officer informed him about DD No. 33A regarding robbery at West Patel Nagar, 26 Block near community center. On receiving the said information, he alongwith Ct. Harinder went to the spot. There they met with the complainant Mukul Nishad who narrated the incident, which incident was reduced into writing by PW5 vide his statement Ex.PW4/A which bears his signatures at point B. PW5 made endorsement on the statement of Mukul Nishad, the complainant/victim Ex.PW5/A which bears his signatures at point A. Rukka was handed over to Ct. Harinder for getting the case registered. After having got the case registered, Ct. Harinder returned to the spot with rukka and copy of FIR which were handed over to PW5. Site plan Ex.PW5/B bearing the signatures of PW5 at point A was drawn up at the instance of the complainant. Search was made for the accused persons but they could not be found. Thereafter, they went to the police station with the complainant where supplementary statement of the complainant was recorded. PW5 also recorded statement of Ct. Harinder PW3. Thereafter, he deposed that on 09.08.2016 he was on emergency duty at police station alongwith Ct. Pawan when at about 9.30 pm, complainant Mukul Nishad came to the police

station and informed him that one of the robbers was standing near Shadipur Metro Station. Thereafter, he alongwith Ct. Pawan and the complainant reached Shadipur Metro Station where the complainant pointed towards accused Akshay who was standing by the side of the wall. Accused Akshay was apprehended and correctly identified by the IO during his deposition before the court. During investigation, nothing was recovered from the possession of the accused.

14. PW5 was cross examined by counsel for the accused. During his cross examination, he deposed that he received the DD entry no. 33A at about 11.15 pm. He deposed that he did not make any separate departure entry. He deposed that he reached on the spot within 15 minutes of receiving the information. He deposed that no independent public person was found present at the spot. He deposed that it is wrong to suggest that the spot being a public place, many public persons were present there. He deposed that he prepared the rukka at about 12 midnight at which time there were no independent public person. He further deposed that on 09.08.2016 at about 9.30 pm, he reached at Shadipur metro station where there were many public persons and the place was well illuminated. He deposed that the complainant pointed out the accused from a distance of 4 to 5 meters and thereafter, it took about one hour to complete the rest of the proceedings. He deposed that public persons were requested to join investigation but none of them agreed. He deposed that due to paucity of time, he could not serve the notice to any of the public persons to join investigation. He deposed that it is wrong to suggest that he had deposed falsely.

15. Statement of the accused was recorded under Section 313 Cr.P.C in which all the incriminating evidence was put to the accused but the accused

did not give satisfactory answers to any of the questions put to him. To most of the questions put to him he either deposed that the facts were either incorrect or that he did not know anything about those facts. He merely deposed that the witnesses were interested witnesses and that he was falsely implicated in this case. But no motive for false implication either on the part of the complainant or the police officials was either assigned or proved by the accused. Accused did not lead any evidence despite opportunity being granted and despite the fact that the complainant had supported the version of the prosecution both in his examination in chief as well as cross examination.


16. I have discussed all the evidence that was led by the prosecution in the present case. The prosecution has been able to establish the chain of events that happened as per the complaint. Prosecution has examined five witnesses in support of its case. Main witness was PW4, the complainant himself Mr. Mukul Nishad who narrated the entire incident. He had duly identified the complainant during the court proceedings when the testimony was recorded. Moreover, the remaining witnesses of the prosecution, though they may be formal in nature, they have also withstood the test of cross examination and have supported the version of complainant and the case of the prosecution outlined in the chargesheet. Though it is correct that no recovery could be effected from the accused, but recovery is not sine qua non for the prosecution in order to establish its case especially when the complainant had duly and correctly identified the accused who had committed the said offence upon the complainant. For the sake of deciding the judgment, it would be wise to discuss the testimony of PW4 once again. During his examination in chief, PW4 correctly identified the accused. He deposed that the accused caught hold of his neck from behind and the associate of the accused showed him a knife

by standing in front of him. He deposed that on knife point, the accused and his associates robbed the complainant of his mobile phone, his purse containing several documents and a cash of Rs.2500/-. The incident occurred on 01.08.2016 and thereafter, accused was seen by the complainant under Shadipur Metro Station on 09.08.2016. Accused was identified standing below the metro station. Even as per his own deposition, complainant did not know the accused since before the incident on 01.08.2016. Neither the accused has taken this defence that both the complainant and accused were known to each other before the incident or there was any sort of enmity or animosity between the complainant and accused. Moreover, even the accused has not given any reason against any of the witnesses because of which witnesses might be interested in deposing falsely against the accused. No motive or previous bad relations have been alleged, leave aside proving them in testimony before the court. Even during the cross examination, PW4 has reiterated the incident in consonance with his examination in chief. Even though no independent public witness has been produced by the prosecution in the present case, from the testimony of PW4 and other witnesses, it can be safely ascertained that the prosecution has been able to prove its case beyond a reasonable shadow of doubt. Accused has neither explained the evidence appearing against him in his statement under Section 313 Cr.P.C, nor he has produced any evidence on his own to prove the fact of false implication by the complainant or any other witness. Therefore, in view of above mentioned discussions and observations, this court has no hesitation to hold that the prosecution has proved its case against the accused beyond all reasonable doubt and has successfully established the involvement and complicity and the role of accused in the commission of offence charged against him. Therefore, accused stands

convicted of the offences charged against and is accordingly convicted for
offence u/s 392 IPC.

ANNOUNCED IN THE OPEN COURT

ON 30th JULY 2020


(SUNIL BENIVAL)
ADDITIONAL SESSIONS JUDGE
SPECIAL JUDGE : NDPS
WEST DISTRICT/DELHI

FIR No. 443/16

State vs Akshay

11/11