

State Vs. Ritik

E-FIR No.012296/2020

PS: Rajender Nagar

रिशभ कपूर
RISHABH KAPOOR
महानगर दण्डाधिकारी-03
Metropolitan Magistrate-03
केन्द्रीय जिला कमरा नं. 150
Central District, Room No. 150
तीस हजारी न्यायालय, दिल्ली
Tis Hazari Courts, Delhi

13.08.2020

Matter heard through VCC over Cisco Webex.

Case is taken up in view of directions of Hon'ble High Court vide Office order No.26/DHC/2020 Dated 30.07.2020.

Present: Sh. Vakil Ahmed Ld. APP for State

Sh.Atul Ld.Counsel for applicant/accused

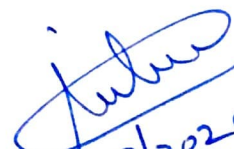
The present application was filed on behalf of the applicant through email id of this court.

Scanned copy of reply under the signatures of IO/HC Ravinder Singh, is received through email. Copy of same stands supplied to Counsel for applicant, electronically.

This order shall dispose off application for grant of bail u/s 437 Cr.PC., moved on behalf of ***applicant/accused Ritik.***

It is averred on behalf of accused/applicant that he has been falsely implicated in the present case. It is further averred that the applicant/accused has no involvement in the present case. It is further averred that the custody of applicant is no more required for the purposes of investigation. It is further averred that applicant is poor person having a family to look after. With these averments, prayer is made for grant of bail to accused.

Ld. APP for the State submits that the accused shall not be released on bail as he is a habitual offender, having previous involvements.


13/08/2020.

On perusal of the scanned copy of previous conviction/involvement report received along with reply of IO (through email), it emerges that the accused is having previous involvements in certain other cases, involving serious offences. More particularly, the accused/applicant has been shown to have complicity in respect of case FIR No. 05658/2020 u/s 379/411 IPC P.S Hari Nagar, case FIR No. 322/2019 u/s 33 Delhi Excise Act PS Binda Pur and case FIR No. 2296/2020 u/s 379 IPC, P.S Rajender Nagar. If that be so, the apprehension of prosecution that if enlarged on bail, he will commit the offences of like nature or will dissuade the material prosecution witnesses, appears to be well justified.

In such circumstances, this court is of the firm view that no ground for grant of bail is made out to the **accused/applicant Ritik**. Accordingly, the present application deserves dismissal and same is hereby **dismissed**.

Scanned copy of this order be sent to Counsel for applicant, through email.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.


(RISHABH KAPOOR)
MM-03 (Central), THC, Delhi
13.08.2020

State Vs. Rahul @ Badal

FIR No.138/2018

PS: Rajender Nagar

13.08.2020

ऋषभ कपूर
RISHABH KAPOOR
महानगर दण्डाधिकारी-03
Metropolitan Magistrate-03
केन्द्रीय जिला कमरा नं. 150
Central District, Room No. 150
तीस हजारी न्यायालय, दिल्ली
Tis Hazari Courts, Delhi

Matter heard through VCC over Cisco Webex.

Case is taken up in view of directions of Hon'ble High Court vide Office order No.26/DHC/2020 Dated 30.07.2020.

Present: Sh. Vakil Ahmed Ld. APP for State

Sh.Zia Afroz Ld.Counsel for applicant/accused

The present application u/s 437 Cr.PC., was filed on behalf of the applicant Rahul @ Badal, through email id of this court.

Reply of IO is not received.

At this stage, Ld. Counsel for applicant/accused submits that he wishes to withdraw the present application with a liberty to file it afresh incorporating some additional facts along with prayer for cancellation of NBWs issued against accused.

Request is considered and allowed.

In view of above submissions made on behalf of applicant, the present application is dismissed as withdrawn. However, the applicant shall be at liberty to file the application afresh, incorporating some additional facts along with prayer for cancellation of NBWs, if so advised.

Application is accordingly disposed off.

Scanned copy of this order be sent to Counsel for applicant, through email.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.


(RISHABH KAPOOR)
MM-03 (Central), THC, Delhi
13.08.2020

State Vs. Unknown (through applicant Babit Kumar)

E-FIR No.146/2020

PS: IP Estate

13.08.2020

रिशभ कपूर
RISHABH KAPOOR
 महानगर दण्डाधिकारी-03
 Metropolitan Magistrate-03
 केन्द्रीय जिला कमरा नं. 150
 Central District, Room No. 150
 तीस हजारी न्यायालय, दिल्ली
 Tis Hazari Courts, Delhi

Matter heard through VCC over Cisco Webex.

Case is taken up in view of directions of Hon'ble High Court vide Office order No.26/DHC/2020 Dated 30.07.2020.

Present: Sh. Vakil Ahmed Ld. APP for State

Applicant Babit Kumar in person

The present application was filed on behalf of the applicant through email id of this court.

Scanned copy of reply under the signatures of Mahesh Kumar No.155/C, P.S I.P Estate, is received through email. Copy of same stands supplied to applicant, electronically.

This order shall dispose off the application for release of **Redmi Note 5 Pro mobile phone** on Superdari, moved on behalf of **applicant Babit Kumar**.

In reply filed by IO Mahesh Kumar, it has been stated that in connection with the present case FIR, the abovesaid mobile phone is lying in the custody of the police at PS I.P. Estate. IO has stated that the mobile phone in question belongs to applicant/complainant Babit Sharma and its bill has been verified. IO has raised no objection if the aforesaid mobile phone is released on superdari.

For the purposes of identity applicant has sent scanned copy of his Aadhar ID card. Scanned copy of bill pertaining to mobile phone is also sent to email id of court along with the application

On perusal of the report of the IO and the documents appended with the application, it prima facie emerges that applicant Babit Kumar is the owner of the Redmi Note 5 Pro mobile phone in question. If that be so, he prima facie appears to be entitled for the custody of mobile phone in question.

[Signature]
 13/08/2020.

In these circumstances and as per directions of **Hon'ble High Court of Delhi** in matter of **"Manjit Singh Vs. State"** in Crl. M.C. No.4485/2013 dated 10.09.2014, the aforesaid the mobile phone be released to the applicant / owner subject to the following conditions:-

1. Redmi Note 5 Pro mobile phone in question be released to its owner only subject to furnishing of indemnity bond as per its value, to the satisfaction of the concerned SHO/ IO subject to verification of documents.
2. IO shall prepare detailed panchnama mentioning the colour, IMEI NO., ownership and other necessary details of the mobile phone in question.
3. IO shall take the colour photographs of the mobile phone from different angles and also of the IMEI number of the mobile phone in question.
4. The photographs should be attested and counter signed by the complainant/applicant and accused.
5. IO is directed to verify the bill/invoice of the mobile in question and release the same to the applicant.

Scanned copy of this order be sent to applicant through email.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.


(RISHABH KAPOOR)
MM-03 (Central), THC, Delhi
13.08.2020

State Vs. Danish

E- FIR No.005623/2015

PS: I.P. Estate

ऋषभ कपूर
RISHABH KAPOOR
महानगर दण्डाधिकारी-03
Metropolitan Magistrate-03
केन्द्रीय जिला कमरा नं. 150
Central District, Room No. 150
तीस हजारी न्यायालय, दिल्ली
Tis Hazari Courts, Delhi

13.08.2020

Matter heard through VCC over Cisco Webex.

Case is taken up in view of directions of Hon'ble High Court vide Office order No.26/DHC/2020 Dated 30.07.2020.

Present: Sh. Vakil Ahmed Ld. APP for State

Sh. Ravinder Kumar Ld. Counsel for applicant/accused

IO/HC Bittu Tomar in person

The present application was filed on behalf of the applicant through email id of this court.

Scanned copy of reply under the signatures of IO/HC Bittu Tomar, is received through email. Copy of same stands supplied to Counsel for applicant, electronically.

This order shall dispose off the application for grant of bail u/s 437 Cr.PC, moved on behalf of **applicant/accused Danish**.

It is averred on behalf of accused/applicant that he has been falsely implicated in the present case. It is further averred that the applicant/accused has no involvement in the present case. With these averments, prayer is made for grant of bail to accused.

Ld. APP for the State submits that the accused shall not be released on bail as he is a habitual offender, having previous involvements. It is also contended that the present successive bail application of accused is not maintainable without establishing any changed circumstances in the case.

[Signature]
13/08/2020

At the very outset, it is pertinent to mention here that the present application is the second bail application moved on behalf of the applicant, seeking his enlargement on bail. It may be added here that the earlier bail application of applicant/accused has already been dismissed by this court on 31.01.2020. The bare perusal order passed in earlier bail application of applicant/accused would reveal that the earlier bail plea was rejected on account of his possibility of dissuading the witnesses and likelihood of his indulgence in offences of like nature in view of his previous bad antecedents. However, in this regard it is pertinent to mention here that even though there is no bar in entertaining successive bail applications, by consideration before the same court. There also lies not time-limit, set for moving the court for bail, after the first or previous bail application, is rejected. But, it should be only when some new facts and circumstances have been developed, after rejection of previous bail application, then only the successive bail application should be considered on merits. ***In Parvinder Singh vs. State of Punjab 2003 12 SCC 528***, the Hon'ble apex court held that though an accused has right to move successive bail applications for grant of bail, but the court entertaining such subsequent application, has a duty to consider the reasons and grounds on which earlier bail applications were rejected. In such cases, the court has a duty to record what are the fresh grounds which persuade it to take a view, different from one taken in earlier application. Similarly, in ***State of Madhya Pradesh versus Kajad AIR 2001 SC 3517***, it was held that it is true that successive bail application are permissible under the changed circumstances, but without the change in circumstances, the second bail application would be deemed, seeking review of earlier judgment, which is not permissible under the criminal law.

Now, coming to the contentions advanced on behalf of the accused/applicant, qua changed circumstances justifying maintainability of present application. As per the version of the applicant's counsel, since the accused has been undergoing custody for since long, hence in view of this changed circumstance, the present bail application can well be entertained by this court. In this regard, it is pertinent to add that the authorities cited above clearly suggests that the successive bail applications are maintainable before the same court only when, circumstance which led to the dismissal of earlier application, is shown to have been changed. Mere, branding a circumstance or glossing it with a term 'changed circumstance', does not, fall under the purview of circumstance, which leads to maintainability of successive bail application, unless the same has direct bearing on the grounds upon which the decision on earlier application was made. If, without establishing the said changed circumstance, the court ventures itself into entertaining the successive bail applications, it virtually tantamounts to review of its own order, which certainly is not contemplated under the scheme of Code of Criminal Procedure. As far as the assertions of the counsel for applicant are concerned, pertinently, the perusal of the order passed in first bail application of applicant/accused is suggestive of the fact that same was dismissed by this court primarily on two counts which are; first, the


13/08/2020.

previous bad antecedents of the applicant, justifying the apprehensions of the prosecution regarding the possibility of commission of offences of like nature by the accused/applicant. Pertinently, on establishing the fact by prosecution that the applicant has dented antecedents, as he having previous involvements in certain other cases involving serious offences and secondly on the count that there existed a likelihood that if admitted on bail, the applicant will dissuade the prosecution witnesses, his earlier bail application was rejected by this court. The fact that, the applicant has previous dented criminal antecedents still subsists and as such nothing cogent has been placed on record on behalf of the accused/applicant vanishing the apprehension of the prosecution or that if admitted on bail, the accused will not indulge himself in offences of similar nature, I am of the view that the present application as moved on behalf of applicant lacks any maintainability.

In the light of my discussion made above, and also placing on reliance on the authorities cited above, since the earlier bail application of the applicant was dismissed on the ground of existence of likelihood of commission of offences of similar nature by the applicant, in case of his release and also upon appreciating possibility of his dissuading the prosecution witnesses, therefore merely on account of fact that accused is in judicial custody since long, the prayer of the applicant cannot be accepted

In such circumstances, this court is of the firm view that no ground for grant of bail is made out to the **accused/applicant Danish**. Accordingly, the present application deserves dismissal and same is hereby **dismissed**.

Scanned copy of this order be sent to Counsel for applicant, through email.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.


(RISHABH KAPOOR)
MM-03 (Central), THC, Delhi
13.08.2020