

07.11.2020

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 holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Sh. Kushdeep Gaur, Ld. Counsel for all the Appellants.
Mr. Gyan Prakash Substitute learned Addl.PP for State through VC.
Original Complainant Farah Yasmin with counsel Rohit Bhardwaj.

It is stated that they have filed online submissions on 31.10.2020. Same be taken on record.

Put up for final judgment/appropriate orders on 20.11.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

Crl. Rev.: 446/2019
Sahara India Comm. Corp. Ltd. v. Income Tax Officer

07.11.2020

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 holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Ms. Riya Dubey proxy counsel for Ms. Neha, counsel for Revisionist through VC.
Sh. Arpit Batra and Sh. Saurabh Sharma, Ld. Counsels for respondent/ITO through VC.

It is stated Ms. Neha, main counsel for revisionist is still quarantine due to COVID-19.

At request, put up on 05.12.2020.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

07.11.2020

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 holding physically today as per directions.

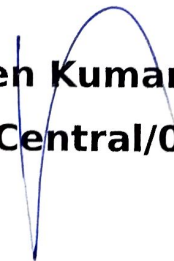
This court is also discharging Bail Roster duty.

Present: Ms. Riya Dubey proxy counsel for Ms. Neha, counsel for Revisionist through VC.
Sh. Arpit Batra and Sh. Saurabh Sharma, Ld. Counsels for respondent/ITO through VC.

It is stated Ms. Neha, main counsel for revisionist is still quarantine due to COVID-19.

At request, put up on 05.12.2020.

**(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020**



Crl. Rev.: 431/2019
O.P. Srivastava v. Income Tax Officer

07.11.2020

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 holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Ms. Riya Dubey proxy counsel for Ms. Neha, counsel for Revisionist through VC.
Sh. Arpit Batra and Sh. Saurabh Sharma, Ld. Counsels for respondent/ITO through VC.

It is stated Ms. Neha, main counsel for revisionist is still quarantine due to COVID-19.

At request, put up on 05.12.2020.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

**Crl. Rev.: 430/2019
Subrata Roy Sahara v. ITO**

07.11.2020

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 holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Ms. Riya Dubey proxy counsel for Ms. Neha, counsel for Revisionist through VC.
Sh. Arpit Batra and Sh. Saurabh Sharma, Ld. Counsels for respondent/ITO through VC.

It is stated Ms. Neha, main counsel for revisionist is still quarantine due to COVID-19.

At request, put up on 05.12.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

Crl. Rev.: 429/2019
Ranoj Das Gupta v. Income Tax Officer

07.11.2020

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.

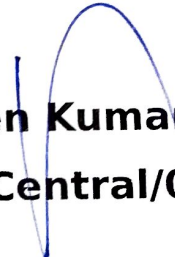
This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Ms. Riya Dubey proxy counsel for Ms. Neha, counsel for Revisionist through VC.
Sh. Arpit Batra and Sh. Saurabh Sharma, Ld. Counsels for respondent/ITO through VC.

It is stated Ms. Neha, main counsel for revisionist is still quarantine due to COVID-19.

At request, put up on 05.12.2020.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

State v Shankar Kumar Jha @Moment
(Application for extension of interim bail of accused Shankar)
FIR No: 14/2019
PS: Subzi Mandi Railway Station

07.11.2020

This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.

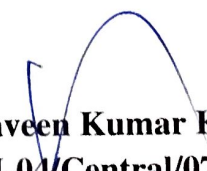
Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State.
Mr. S.N. Shukla, learned LAC for applicant / accused.

This is an application for extension of interim bail filed by the applicant / accused through counsel.

Vide order dated 20/10/2020 Hon'ble High Court of Delhi was pleased not to extend such interim bail vide para No.7 (i) of such order. Further, certain liberty was given to the accused person to approach the court concerned under para 7 (ii) for extension of interim bail.

But thereafter, Hon'ble Supreme Court in SLP (C) Diary No. 23367 / 2020 titled as "*National Forum on prison reforms vs Government of NCT of Delhi & others*" vide order dated 29/10/2020 was pleased to stay the operation of such para 7(i) & 7(ii) and put up the matter for further hearing for 26/11/2020.

In view of such development, as para 7 (ii) is also stayed by hon'ble Supreme Court, put up for further proceedings / appropriate orders on the present application for **27/11/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

**State v Gaurav Chauhan Etc.
(Bail Bond of Ankur Singh)
FIR No: 199/2009
PS: Kashmere Gate**

07.11.2020

This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State.
Mr. Animesh Pandit, Adv. on behalf of main counsel Mr. Jitender Sethi.

It is stated that the main counsel will address further arguments.

As such, put up for further arguments for **10/11/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

State v Gaurav Chauhan Etc.
(Bail Bond of Gaurav Chauhan)
FIR No: 199/2009
PS: Kashmere Gate

07.11.2020

This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State.
Mr. Animesh Pandit, Adv. on behalf of main counsel Mr. Jitender Sethi.

It is stated that the main counsel will address further arguments.

As such, put up for further arguments for **10/11/2020**.

(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020



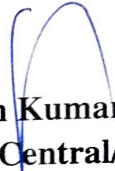
State v Imran @ Akhtar Khan Etc.
(Application of Vishal @ Honey)
FIR No: 227/2020
PS: Wazirabad

07.11.2020

This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State.
Mr. Rajesh Rathod, learned counsel through VC.

Put up for reply, arguments and appropriate orders for **21/11/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

07.11.2020

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.

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

In the present case, last regular date of hearing 20/04/2020 and 11/06/2020 -----, Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing through VC.

This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.

Present: Proxy counsel on behalf of main counsel for appellant.

Mr. Rishi Manchanda, learned counsel for respondent.

It is stated that the main counsel for appellant is quarantined due to covid-19.

Further part arguments heard.

At request of counsel for the appellant, last and final opportunity is granted for addressing arguments.

Trial Court record be summoned for the next date of hearing.

Put up for further arguments for **25/11/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

APPLICATION FOR RELEASE OF VEHICLE

**State v. Imran Akhtar etc.
FIR No.: 227/2020
PS: Wazirabad
U/S: 302 IPC**

07.11.2020

This court is holding physically today as per directions.

Present: Mr. Gyan Prakash Substitute learned Addl.PP for State through VC.
Sh. Deepak Rawat, Ld. Counsel for applicant.

He has placed on record a copy of reply filed by Sh. P.C. Yadav which is stated to be filed in MM court. The vehicle in question DL-10IY-9314 is stated to be seized during the investigation of present case.

Regular Ld. Addl. PP for the state is on leave today. As such, put up for arguments from him regarding release of such vehicle on superdari for **12.11.2020**.


**(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020**

BAIL APPLICATION of ARSHAD

**State v. Tehsin @ Kevda
FIR No.: 20/2015
PS: Kamla Market**

07.11.2020

This court is holding physically today as per directions.

Present: Mr. Gyan Prakash Substitute learned Addl.PP for State through VC.
Sh. J.S. Mishra, LAC for applicant through VC.

Arguments in detail heard on the regular bail application of accused Arshad.

Put up for orders/clarifications, if any on the next physical hearing day on 12.11.2020.

**(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020**

State v Padam Singh
(Application of for extension of interim bail)
FIR No: 55/2018
PS: Kotwali

07.11.2020

This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State.
Mr. Alamine, learned counsel for the applicant/ accused.

It is stated that accused was granted interim bail based on criteria of the High Power Committee. The same is noted.

Put up for appropriate orders for **10/11/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

CR No. 36/2020
Anurag Goel Vs State

07.11.2020

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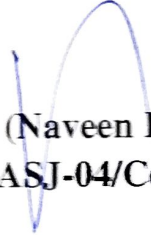
In view of the above-mentioned orders/directions, file is taken up through Webex.

This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.

Present: Mr. Vikas Arora, learned counsel for the revisionist through VC.

Mr. Gyan Prakash, learned Substitute Addl.PP for State.

Put up for further appropriate orders for **22/01/2021**. Trial Court record. The same be sent back and be summoned only two days before the next date of hearing.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

Bail Matter No.: 1796/2020
FIR No: 151/2020
PS: I.P. Estate
State v Subhash Chander @ Mukesh

07.11.2020

Today this court is holding physically hearing as per directions.

Present:

Mr. Gyan Prakash, learned Substitute Addl.PP for State.

Mr. Hari Dutt, learned DLSA counsel for the applicant.

SI Narender Kumar also present.

Reply filed. Copy be supplied during the course of the day.

IO has stated that chargesheet has already been filed in this case.

Put p for arguments and appropriate orders for **21/11/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

Bail Matter No.: 1790/2020
FIR No: 195/2019
PS: Kamla Market
State v Salman s/o Mohd. Ibrahim

07.11.2020

Today this court is holding physically hearing as per directions.

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State.

Mr. Sunil Upadhyay, learned counsel for the applicant / accused.

Fresh bail application filed by the applicant through counsel.

Reply filed by the IO.

Put up for arguments and orders as today is the physical hearing of this court.

Put up for arguments for **18/11/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

BAIL APPLICATION NO.: 1607/2020

**State v. Parvez @ Pachhu
FIR No.: 234/2020
PS: Prashad Nagar
U/s:457,380,34 IPC**

07.11.2020

This court is holding physically today as per directions.

Present: Mr. Gyan Prakash substitute learned Addl.PP for State through VC.
None for the applicant.

Even on the last date of hearing, none was present on behalf of accused. As such, this application is dismissed in default.

**(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020**

**At this stage,
At 12.45 pm**

Sh. Narender Kumar, Ld. Counsel for applicant through VC.
Reply already filed. Copy of the same be supplied to counsel for applicant.

Put up for arguments and appropriate orders for 21.11.2020.

**(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020**

**BAIL APPLICATION NO.: 1793/2020
(ANTICIPATORY BAIL)**

**State v. Dinesh Kumar
FIR No.: NOT KNOWN
PS: Kamla Market**

07.11.2020

This court is holding physically today as per directions.

Present: Mr. Gyan Prakash substitute learned Addl.PP for State through VC.
None for applicant.
ASI Ganesh is present in person.

He has filed reply.

**Put up for appearance of counsel for applicant,
arguments and appropriate orders on 19.11.2020.**


**(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020**

At 12.40 pm

At this stage, Sh. Pankaj Tomar, Ld. counsel appeared. He is apprised of the order passed in the morning.


**(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020**

EXTENSION OF BAIL APPLICATION OF

ANKIT AGGARWAL

**State v. Bablu Mathur
FIR No.: 221/2015
PS: Karol Bagh**

07.11.2020

This court is holding physically today as per directions.

Present: Mr. Gyan Prakash Substitute learned Addl.PP for State through VC.
Sh. Deepanshu Chugh, Ld. counsel for applicant.

It is stated that some order is passed by Hon'ble High Court in WP no. 3080/2020. Counsel seeks some time to place copy of the same on record.

Put up for 10.11.2020 for further appropriate orders.

**(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020**



MISC. APPLICATION

State v. Abdul Salam @ Wassim @ Tiggi
FIR No.: 02/2014
PS: Jama Masjid

07.11.2020

This court is holding physically today as per directions.

Present: Mr. Gyan Prakash Substitute learned Addl.PP for State through
VC.
None for applicant.

These two applications are dismissed in default as nobody is
appearing in these matters.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

BAIL APPLICATION NO.: 1663/2020

State v. Sharad Chandra Shrivastava

FIR No.: 186/2019

PS: Kamla Market

U/s: 365,342,506,34 IPC

07.11.2020

This court is holding physically today as per directions.

Present: Mr. Gyan Prakash substitute learned Addl.PP for State through
VC.
Sh. Chander Maini, Ld. Counsel for applicant.
IO SI Giriraj in person.

Arguments in detail heard.

Put up for orders/clarifications, if any on 10.11.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

BAIL APPLICATION NO.: 1673/2020
BAIL APPLICATION NO.: 1799/2020

State v. Shiv Shankar Mishra
FIR No.: 186/2019
PS: Kamla Market
U/s: 365,342,506,34 IPC

07.11.2020

This court is holding physically today as per directions.

Present: Mr. Gyan Prakash substitute learned Addl.PP for State through VC.
Sh. Chander Maini, Ld. Counsel for applicant.
IO SI Giriraj in person.

These are two bail applications moved by the same accused.
As such, application which is filed later i.e. **1799/2020 is merged with bail application no. 1673/2020.**

Arguments in detail heard.

Put up for orders/clarifications, if any on 10.11.2020.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

BAIL APPLICATION NO.: 1798/2020

State v. Heera
E-FIR No.: 000191/2020
PS: Rajinder Nagar
U/s: 379,380,411,34 IPC

07.11.2020

This court is holding physically today as per directions.

Present: Mr. Gyan Prakash substitute learned Addl.PP for State through VC.
Sh. Mahesh Kumar Patel, Ld. Counsel for applicant.

This is a fresh bail application. Reply filed. Copy of the same be supplied to counsel for applicant during course of the day.

Put up for arguments and appropriate orders on

21.11.2020


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

**BAIL APPLICATION NO.: 1793/2020
(ANTICIPATORY BAIL)**

**State v. Dinesh Kumar
FIR No.: NOT KNOWN
PS: Kamla Market**

07.11.2020

This court is holding physically today as per directions.

Present: Mr. Gyan Prakash substitute learned Addl.PP for State through VC.
None for applicant.
ASI Ganesh is present in person.

He has filed reply.

**Put up for appearance of counsel for applicant,
arguments and appropriate orders on 19.11.2020.**


**(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020**

At 12.40 pm

At this stage, Sh. Pankaj Tomar, Ld. counsel appeared. He is apprised of the order passed in the morning.


**(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020**

BAIL APPLICATION NO.: 1607/2020

**State v. Parvez @ Pachhu
FIR No.: 234/2020
PS: Prashad Nagar
U/s:457,380,34 IPC**

07.11.2020

This court is holding physically today as per directions.

Present: Mr. Gyan Prakash substitute learned Addl.PP for State through VC.
None for the applicant.

Even on the last date of hearing, none was present on behalf of accused. As such, this application is dismissed in default.

**(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020**

**At this stage,
At 12.45 pm**

Sh. Narender Kumar, Ld. Counsel for applicant through VC.

Reply already filed. Copy of the same be supplied to counsel for applicant.

Put up for arguments and appropriate orders for 21.11.2020.

**(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020**

Bail Matter No.: 1790/2020
FIR No: 195/2019
PS: Kamla Market
State v Salman s/o Mohd. Ibrahim

07.11.2020

Today this court is holding physically hearing as per directions.

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State.

Mr. Sunil Upadhyay, learned counsel for the applicant / accused.

Fresh bail application filed by the applicant through counsel.

Reply filed by the IO.

Put up for arguments and orders as today is the physical hearing of this court.

Put up for arguments for **18/11/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

Bail Matter No.: 1796/2020
FIR No: 151/2020
PS: I.P. Estate
State v Subhash Chander @ Mukesh

07.11.2020

Today this court is holding physically hearing as per directions.

Present:

Mr. Gyan Prakash, learned Substitute Addl.PP for State.

Mr. Hari Dutt, learned DLSA counsel for the applicant.

SI Narender Kumar also present.

Reply filed. Copy be supplied during the course of the day.

IO has stated that chargesheet has already been filed in this case.

Put p for arguments and appropriate orders for **21/11/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

SC:27806/2016
FIR No: 173/2013
PS: Burari
State v. Shanu

07.11.2020

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In the present case, last regular date of hearing was 22.04.2020 and 15.06.2020.

On 15.06.2020, matter was adjourned for 07.11.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing.

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Mr. Gyan Prakash Substitute learned Addl.PP for State through VC.
Sh. B.S. Mishra, LAC for accused.

It is stated that accused is on interim bail at present.

Part final arguments heard.

At request, put up for final arguments as main Addl PP for state is on leave today.

Put up on 20.11.2020.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

SC:28519/2016
FIR No: 171/2010
PS: Pahar Ganj
State v. Joginder @ Joga

07.11.2020

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.

In the present case, last regular date of hearing was 16.04.2020,08.06.2020 and 06.08.2020

On 06.08.2020, matter was adjourned for 07.11.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing.

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Mr. Gyan Prakash Substitute learned Addl.PP for State through VC.
Accued Jogender @ joga produced from JC, Tihar through VC.

Fresh notice to IO/SHO be issued to verify the factum of death of accused no. 5 Sikander @ Sunny and file the report positively by next date of hearing.

Put up for PE in terms of previous order17.03.2021.

(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

07.11.2020

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.

In the present case, last regular date of hearing was 05.05.2020 and 03.07.2020

On 03.07.2020, matter was adjourned for 07.11.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing.

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Sh. Naman Aggarwal, Ld. Counsel for Appellant.
Mr. Gyan Prakash Substitute learned Addl.PP for State/
respondent through VC.

It is submitted that there is another party namely VLS Finance.
It is stated that they are not made party in the present appeal.

Put up for consideration /appropriate order in this aspect.

Put up on 17.03.2021.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

07.11.2020

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.

In the present case, last regular date of hearing was 05.05.2020 and 03.07.2020

On 03.07.2020, matter was adjourned for 07.11.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing.

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Sh. Naman Aggarwal, Ld. Counsel for Appellant.
Mr. Gyan Prakash Substitute learned Addl.PP for State/
respondent through VC.

It is submitted that there is another party namely VLS Finance. It is stated that they are not made party in the present appeal.

Put up for consideration /appropriate order in this aspect.

Put up on 17.03.2021.

(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

SC:27341/2016
FIR No: 70/2008
PS: Kashmere Gate
State v. Gabbar Singh @ Gurcharan

07.11.2020

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 holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Mr. Gyan Prakash Substitute learned Addl.PP for State through VC.
None for accused.

Issue P/w against accused no.1 Gabbar Singh for next date of hearing through VC.

Issue B/w in the sum of Rs. 5000/- against other accused no.2, 3 and 4 with notices to their sureties for next date of hearing.

As this is one of the oldest matter pending in this court, as such, put up on 16.12.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

07.11.2020

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.

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

In the present case, last regular date of hearing 05/05/2020 & 03/07/2020. Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing through VC.

This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.

Present: Mr. Naman Aggarwal, proxy counsel for revisionist.

One of the revisionist Bipin Kumar is present through VC.

Mr. Gyan Prakash, learned Substitute Addl.PP for State.

Learned regular Addl.PP for the State is on leave today. It is stated that respondent no.2 has already expired. His legal heirs are at liberty to join present proceedings.

Put up for further arguments and appropriate orders for **14/12/2020**. Interim protection, if any, to continue till the next date of hearing only.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

CA: 88/2020
Rama Shankar Rai v. Satish Kumar Raheja

07.11.2020

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.

In the present case, last regular date of hearing was 13.04.2020,14.05.2020 and 10.07.2020.

On 10.07.2020, matter was adjourned for 07.11.2020.

Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing.

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: None for Appellant.

PF not filed in terms of order dated 13.03.2020. As such, previous order be complied with afresh.

Put up on 18.03.2021.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

SC No.: 28706/2016
FIR No.: 230/2016
PS Timar Pur
State vs Bhuwan

07.11.2020

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.

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

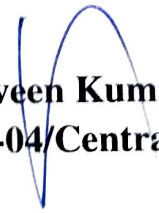
In the present case, last regular date of hearing 05/05/2020 & 03/07/2020. Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing through VC.

This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State.

Accused Bhuwan in person on bail.

Put up for PE in terms of previous order for 18/03/2021.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

07.11.2020

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.

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

In the present case, last regular date of hearing 01/04/2020, 01/05/2020, & 24/06/2020. Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing through VC.

This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.

Present: Proxy counsel for the appellant through VC.

Mr. Gyan Prakash, learned Substitute Addl.PP for State.

Respondent in person who is advocate by profession.

It is stated that main counsel is in some personal difficulty.

Arguments in detail heard from respondents side including on the aspect of suspension of sentence in case based at all or not as well as issue of 148 NI Act.

The appellant is given last and final opportunity to address arguments on merit as well as on the aspect of suspension of sentence on the next date of hearing.

Put up for further arguments for **20/11/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

SC:687/2017
FIR No: 25/2017
PS: Maurice Nagar
State v. Shahnawaj @ Shanu

07.11.2020

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 holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Mr. Gyan Prakash Substitute learned Addl.PP for State through VC.
None for accused.

Issue fresh NBW against the accused through SHO as well as DCP concerned alongwith notice to his surety for next date.

Put up on 20.11.2020.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

CA No.: 152/2020
Bhoop Singh Aggarwal Vs Harinder Kumar Singh

07.11.2020

This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.

Present: Learned counsel for the appellant.

It is stated by the counsel for the appellant that during the appeal proceedings earlier respondent made certain wrong statement. As such, this appeal u/s 340 Cr.PC is directly filed before this court where such wrong statement is made.

As such, it is clarified that such appeal is not against order of any Trial Court. As such, put up for further consideration / arguments and on the question of registration of the present proceedings for **19/02/2021**.

(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020



CA: 182/2020

M/s. Jain Hosiery Industries v. M/s PEE Sabharwal Traders & Anr.

07.11.2020.

This is a fresh Appeal received by way of assignment. It be checked and registered separately.

Present: Sh. Arun Gupta, proxy counsel for Appellant.

Issue notice of the present appeal as well as application under section 389(1) Cr.P.C for suspension of sentence to the respondent through e-mail as well as SMS or other convenient mode. Steps be taken within three days from today.

In the meanwhile, sentence passed by learned Trial court vide order dated 08.10.2020 is suspended till next date of hearing.

Put up for 01.12.2020.

Copy of this order be given dasti to counsel for appellant.

(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020



BAIL APPLICATION No: 1215/2020

**State v. Barun Kumar Dutta
FIR No.: 181/2019
PS: Prashad Nagar**

07.11.2020

This court is holding physically today as per directions.

Present: Mr. Gyan Prakash Substitute learned Addl.PP for State through VC.
None for applicant.

Today, case was fixed for orders.

Vide order dated 19.10.2020, certain observations/directions were issued to IO including regarding seizing the articles which are admitted by the accused and are stated to be 42 in numbers and which the complainant is not ready to take.

IO/SHO concerned to file reply whether now such articles are already seized /handed by the accused or otherwise seized by the IO as they are case property and in case same are not seized, then SHO to appear in person with IO on next date of hearing. In the meanwhile, interim protection, if any to continue.

Put up for on 21.11.2020.


**(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020**

Bail Matter No.: 990/2020
FIR No: 191/2020
PS: Lahori Gate
State v Manoj Kuamr Sharma

07.11.2020

Today this court is holding physically hearing as per directions.

Present:

Mr. Gyan Prakash, learned Substitute Addl.PP for State.

None for the applicant.

Today the case is fixed for order.

No time is left due to order in bail roster cases and regular matters as today is the physical hearing day of this court also including orders in two revision petition.

Put up for appropriate orders for **10/11/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

State v Ajay @ Nathu & others
(Application of Dharmender @ Montu)
FIR No: 48/2015
PS: Nabi Karim

07.11.2020

This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State.
Learned counsel for the applicant.

It is stated by learned substitute Addl.PP that subsequently the matter was transferred to Crime Branch and verification report from Crime Branch is not yet received.

As such, issue notice to crime branch to file report in terms of order dated 06/11/2020 for **09/11/2020 at 2:00 PM.**


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

State v Pooja & others
(Application of Munni @ Moni)
FIR No: 292/2014
PS: Rajinder Nagar

07.11.2020

This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.

Present: Mr. Gyan Prakash, learned Substitute Addl.PP for State.
Mr. Chirag Khurana, learned counsel for the applicant / accused on behalf of accused Munni.

This is an application for extension of interim bail.

Put up for further appropriate orders / directions for **10/11/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

**IN THE COURT OF SH. NAVEEN KUMAR KASHYAP:
ADDITIONAL SESSIONS JUDGE-04: CENTRAL:THC**

Bail Application

**State V. Rakesh S/o Shankar Lal
FIR No. : 236/2019
PS: Subzi Mandi
U/S: 308, 34 IPC**

07.11.2020

Present: Mr. Gyan Prakash , substitute Ld. Addl. PP for the
State through VC
Mr. Shivendra Singh, learned Counsel from for
Accused in person.

Vide this order, present 3rd regular bail application
dated 24.09.2020 under section 439 Cr.P.C. on behalf of
accused filed through counsel is disposed of.

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

The personal liberty is a priceless treasure for a
human being. It is founded on the bed rock of constitutional right
and accentuated further on human rights principle. The sanctity
of liberty is the fulcrum of any civilized society. Deprivation of
liberty of a person has enormous impact on his mind as well as
body. Further article 21 Of the Constitution mandates that no
person shall be deprived of his life or personal liberty except
according to procedure established by law. Further India is a
signatory to the International Covenant On Civil And Political
Rights, 1966 and, therefore, Article 21 of the Constitution has to
be understood in the light of the International Covenant On Civil
And Political Rights, 1966. *Further* Presumption of innocence is

a human right. Article 21 in view of its expansive meaning not only protects life and liberty ,but also envisages a fair procedure. Liberty of a person should not ordinarily be interfered with unless there exist cogent grounds therefor. The fundamental principle of our system of justice is that a person should not be deprived of his liberty except for a distinct breach of law. If there is no substantial risk of the accused fleeing the course of justice, there is no reason why he should be imprisoned during the period of his trial. The basic rule is to release him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after convictions, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earlier times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial ,but in such case 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the

constitution that any persons should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty under Article 21 of the Constitution upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439 CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

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

a disharmonious manner ushering in disorderly thing which the society disapproves, the legal consequences are bound to follow.

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

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

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for grant or refusal of bail to an accused in a non-bailable offence like, (i) Whether there is any prima facie or reasonable ground to believe that the accused had

committed the offence; (ii) Nature of accusation and evidence therefor, (iii) Gravity of the offence and punishment which the conviction will entail, (iv) Reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, (v) Character and behavior of the accused, (vi) Means, position and standing of the accused in the Society, (vii) Likelihood of the offence being repeated, (viii) Reasonable apprehension of the witnesses being tampered with, (ix) Danger, of course, of justice being thwarted by grant of bail, (x) Balance between the rights of the accused and the larger interest of the Society/State, (xi) Any other factor relevant and peculiar to the accused. (xii) While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. Furthermore, in the landmark judgment of **Gurucharan Singh and others v. State** (AIR 1978 SC 179), it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as

some of the relevant factors in deciding whether to grant bail or not.

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

In the present case, it is submitted that two accused Bunty and Umesh are already granted interim bail in December, 2019 and thus, on ground of parity also he be granted regular bail. It is further stated that there is change in the circumstances since dismissal of the last bail on 14.07.2020 as due to corona pandemic, there is no likelihood of timely disposal of the trial in the present case. It is further stated that although he was convicted earlier in a criminal case under section 307 IPC only. But, now since he has served the sentence, therefore, same should not be taken as adverse against him. It is further submitted that no purpose would be served by keeping him in JC. As such, it is prayed that he be granted regular bail.

On the other hand, it is argued by the learned Addl.PP for the state that there are no material change in the circumstance since dismissal of the last bail application on 14.07.2020. That all such grounds which are taken at present were taken earlier also. It is further pointed out that his bail application is already rejected twice vide order dated 25.02.2020 and 14.07.2020 i.e. after grant of regular bail to two other co-accused in December, 2019. Therefore, there is no question of parity. Even otherwise, it is argued that he is a previous convict that too under section 307 IPC only. It is further argued that serious and specific allegations against the present accused; it is further stated that accused is pressurizing the complainant for settlement. That he attacked the victim on head with sharp weapon. That he is having eleven other criminal cases against him. It is further stated that his interim bail based on relaxed criteria of Hon'ble High court was also dismissed vide order dated 03.07.2020. As such, present application is opposed.

I have heard both the sides and gone through the record. It is rightly pointed out by the learned Addl. PP for the State that offence is serious in nature. Further, there is no material change in circumstances since dismissal of previous bail on 25.02.2020 and 14.07.2020. Even otherwise, no case of parity with the other co-accused is made out having regard to the role of present accused and his previous involvement in fact conviction in similar nature matter. Further, there are instance of pressurizing the complainant side. As such, this court is not inclined to grant regular bail to accused at this stage. **With these observations present bail application is disposed of as dismissed.**

: 8 :

Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Copy of this order be sent to Jail Superintendent concerned through electric mode.

(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi
07.11.2020.

Crl. Rev.: 678/2019
Gurvinder Singh & Ors. v. The State & Ors.

07.11.2020

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 holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Mr. Devender M. Grover, Ld. Counsel for both the revisionists alongwith revisionist in person.
Sh. Gyan Prakash, substitute Addl. PP for state/respondent no.1
Sh. Rishabh Jain and Sh. Vinod Kumar, Ld. Counsels for Respondent no.-2 Paramjit Singh.

Arguments in detail heard from both the sides.

Put up for orders/clarifications, if any on 25.11.2020.

Parties are at liberty to file case law at least two days before the next date of hearing with copy of the same to other side in advance.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

Crl. Rev.: 668/2019
Gurpreet Singh & Ors. v. The State & Ors.

07.11.2020

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 holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Mr. Devender M. Grover, Ld. Counsel for both the revisionists alongwith both the revisionists in person.
Sh. Gyan Prakash, substitute Addl. PP for state/respondent no.1
Sh. Rishabh Jain and Sh. Vinod Kumar, Ld. Counsels for Respondent no.-2 Asha Rani.

Arguments in detail heard from both the sides.

Put up for orders/clarifications, if any on 25.11.2020.

Parties are at liberty to file case law at least two days before the next date of hearing with copy of the same to other side in advance.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

: 1 :

IN THE COURT OF SH. NAVEEN KUMAR KASHYAP:
ADDITIONAL SESSIONS JUDGE: CENTRAL: TIS HAZARI

Bail Application No.: 1538/2020

State Vs. Keshav Kakkar
FIR No. : 304/2020
PS: Karol Bagh
U/S: 386,392,397,506,34 IPC

07.11.2020

Present: Sh. Gyan Prakash, substitute Addl. PP for the state
through VC.
Sh. Vineet Jain, Ld. Counsel for applicant in person.

Vide this order, the regular bail application under section 439 Cr.P.C. on behalf of accused dated 13.10.2020 filed through counsel is disposed of.

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

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

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

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

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

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

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

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural

requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745**).

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

facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

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

In the present case, it is argued that chargesheet is now already filed. It is further argued that he is in JC since 10.07.2020. that there are no independent witnesses or electronic evidence to support the version of complainant. That there is a delay in recording in registration of FIR. No purpose would be served by keeping the accused in JC. As such, it is prayed that regular bail be granted to the accused.

On the other hand, it is argued by the learned Addl.PP for the state that there are serious and specific allegations against the present accused. Present accused alongwith co-accused threatened the complainant with a fire arm for protection money. In fact such accused even robbed the complainant of Rs.12000/- from his shop. That even

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threatened the complainant not to go to police to report about the same. Further, the countrymade pistol also recovered at the instance of present accused. That there are about 7 cases pending against the accused. It is further stated having regard to the nature of the allegations, there is real and strong possibility that he may threaten the witness.

I have heard both the sides and have gone through the record. I find force in the arguments of learned Addl.PP for the state. The offence is serious in nature and is nuisance to public at large. Public witnesses/complainant is not yet examined. As such, this court is not inclined to grant the relief as sought in the present application at this stage. Hence, the same is dismissed.

With these observations present bail application is disposed of as dismissed. Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Copy of this order be sent to Jail Superintendent through electronic mode.

Trial court record be sent back to court concerned.

(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi
07.11.2020

IN THE COURT OF SH. NAVEEN KUMAR KASHYAP:
ADDITIONAL SESSIONS JUDGE: CENTRAL: TIS HAZARI

Bail Application of Vineet @ Lala @ Arjun

State v. Karan Bhardwaj & anr.
FIR No. : 112/2019
PS: Wazirabad
U/S: 392,397,411,34 IPC

07.11.2020

Present: Sh. Gyan Prakash, substitute Addl. PP for the state
through VC.
Sh. Anuj Bhardwaj, Ld. Counsel for applicant through VC.

Further arguments heard today.

It is clarified by learned counsel for accused that this is the first regular bail application. It is further argued that co-accused Karan Bhardwaj is on interim bail.

Vide this order, the regular bail application under section 439 Cr.P.C. on behalf of accused dated 29.09.2020 filed through counsel is disposed of.

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

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

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

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

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

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

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

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so

demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745**).

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

the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

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

In the present case, it is argued that chargesheet is already filed and matter is pending for PE.. It is further argued that he is in JC since 27.04.2019. That he has nothing to do with the present case. That he has deep roots in the society. No purpose would be served by keeping him in JC. As such, it is prayed that regular bail be granted to the accused.

On the other hand, it is argued by the learned Addl.PP for the state that there are serious and specific allegations against the present accused. It is further argued that the regular bail application of co-accused Karan Bhardwaj is already rejected by this court vide order dated 02.03.2020. It is further stated that evidence of complainant /PW-3 is not complete. As such, present bail application is strongly opposed.

I have heard both the sides and have gone through the record. I find force in the arguments of learned Addl.PP for the state. The offence is serious in nature and is nuisance to public at large. Public witnesses/complainant is not yet examined. As such, this court is not inclined to grant the relief as sought in the present application at this stage.

Hence, the same is dismissed.

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With these observations present bail application is disposed of as dismissed. Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Copy of this order be sent to Jail Superintendent through electronic mode.

(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi
07.11.2020

CR No.:49/2020

M/s Treemark Solutions Private Ltd. Vs State of NCT & Anr

07.11.2020

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.

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

This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.

In this case inadvertently next date of hearing was mentioned as 17/11/2020. the same stands cancelled. As such, revision is taken up today.

Present: Ms. Krishna Parkham, learned counsel for the revisionist through VC.


Heard in detail.

Issue notice of the present revision to the State. State to file reply, if any.

Additional copy be placed on record, if already not placed.

Put up for reply, if any, arguments and appropriate orders for **18/11/2020**. Trial

Court Record be called for the next date of hearing.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

SC:28296/16
FIR No: 292/2014
PS: Rajinder Nagar
State v. Pooja

07.11.2020

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 holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Mr. Gyan Prakash, substitute Addl.PP for State through VC.
Sh. Diwakar Chaudhary, LAC for accused Pooja and Suraj Singh
Ms. Preeti Srivastava, Ld. Counsel for accused no.3 Kumari
Munni.
Accused no.4 Mohit Sharma in person on interim bail.

Part final arguments from learned counsel for accused no.3
heard.

**At request, put up for further final arguments on
20.11.2020.**


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

Bail Application

Bail Application No.; 1669/2020
State Vs. Afsar S/o Sh. Asgar Ali
FIR No. : 187/2020
PS: Hauz Qazi
U/S: 308 IPC

07.11.2020

Present: Mr. Gyan Prakash, Learned Substitute Addl. PP for the State through VC
Mr. Satish Kumar & Mr. Kamlesh Kumar, learned Counsel for applicant / accused.

Vide this order, the regular bail application dated 29/10/2020 under section 439 Cr.P.C. on behalf of accused filed through counsel is disposed of.

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

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

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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 deemed to be innocent until duly tried and duly found guilty. From the earlier times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial ,but in such case 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the constitution that any persons should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty under Article 21 of the Constitution upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of

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

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

Further discretionary jurisdiction of courts u/s 437 and 439 CrPC should be exercised carefully and cautiously by balancing the rights of the accused and interests of the society. Court must indicate brief reasons for granting or refusing bail. Bail order passed by the court must be reasoned one but detailed reasons touching merits of the case, detailed examination of evidence and elaborate

documentation of merits of case should not be done.

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

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

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

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

In the present case, it is submitted on behalf of the

Bail Application No.; 1669/2020
State Vs. Afsar S/o Sh. Asgar Ali
FIR No. : 187/2020
PS: Hauz Qazi
U/S: 308 IPC

accused that he is in JC since 21/10/2020; that he has nothing to do with the alleged offence; that he is falsely implicated in the present case; that he has been earning his livelihood in a lawful manner by plying his goods carrier tempo; that on the day of incident he went to drop the goods to Chhadha Pa[per where he parked his vehicle at roadside for unloading, suddenly complainant Amit Kumar alongwith his servant namely Anoop, Shubham Mittal alongwith 5-6 persons came over there and forced him to leave the said road alongwith his tempo. When the accused sought 10 minutes time to unload the goods but complainant side was not ready to listen and pushed him to the ground and forced him to leave the said road immediately. But when he was unloading the said tempo, complainant alongwith such persons caught hold of him and started mercilessly beating him with the help of fist, leg, iron rod, wooden danda, deadly weapon while threatening the accused. They further damaged the accused's tempo. They further removed cash of Rs.15,000/- lying in the tempo. In the meanwhile, police arrived and took the accused to Lady harding hospital for treatment and he was medically examined and he explained whole of the incident. But instead of taking action against the complainant side, accused is implicated in present false case. Further despite giving complaints to higher office dated 23/10/2020, no FIR is registered against the complainant side. That there is no previous criminal record of the present accused. That he has roots in the society and no purpose would be served by keeping him in JC. As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by IO as also argued by learned substitute Addl.PP for the state, it is stated that the accused is found attacking the complainant side with iron rod in the CCTV footage, that investigation is still pending; that he may threaten the witnesses; that the shopkeepers of the area are agitated and if he is

released on bail, then it may lead to tension in the area. But no criminal record of the present accused is found attached with such reply. As such, present application is opposed.

I have heard both the sides and gone through the record. It is rightly pointed out by the learned Addl. PP for the State that offence is serious in nature. Further, investigation still on and at initial stage. Further, injury is serious in nature. As such, this court is not inclined to grant regular bail to accused at this stage. **With these observations present bail application is disposed of as dismissed.**

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

Further needless to say that accused side is at liberty to take action as per law against the complainant side. Further, it appears prima facie that action by the SHO / IO concerned is not as per law in terms of section 154 Cr.PC as FIR is not yet registered at the instance of present accused. Further, IO tried to explain the offence by showing a CCTV footage which is of inside the gali where the present accused is attacking with rod. But no CCTV footage of the main road where the tempo of the accused is standing damaged as shown in page 11 of the present bail application is secured and it is very surprising that in such busy road / bazar there is no CCTV footage of such main

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road collected by the IO. Thus, it may be possible that CCTV footage of such main road may not be collected in order to save the complainant side who appears to be in better position as they are the local shopkeepers. As such, a copy of this order be sent to DCP concerned for his information and necessary action as per law.

Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Copy of order be uploaded on the website. Further a copy of this order be sent to SHO / IO concerned. Further a copy of this order be sent to concerned Jail Superintendent.

(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi
07/11/2020

Bail Application

**Bail Application No.: 1594/2020
State Vs Vinay Verma
FIR No. 196/2019
PS.: Rajinder Nagar
U/s: 420, 34 IPC**

07.11.2020

**Present: Mr. Gyan Prakash, Learned Substitute Addl. PP for State through VC.
Mr. Vinay Kumar Sharma, learned counsel for the applicant / accused in person in court.**

Vide this order, the bail application under section 439 Cr.P.C. on behalf of accused dated 21/10/2020 filed through counsel is disposed of.

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

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

**Bail Application No.: 1594/2020
State Vs Vinay Verma
FIR No. 196/2019
PS.: Rajinder Nagar
U/s: 420, 34 IPC**

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

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

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

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

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

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural

requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745**).

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



granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

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

In the present case, it is argued that accused is a young person of 32 years old; that he was arrested on 21/09/2020; that he is falsely implicated in the present case; that no money was ever received by the applicant in his bank account; infact the present applicant was cheated by one Mangal and falsely implicated by the complainant in connivance with such Mangal; that allegations against him are vague and there is no detail of money received by him. No purpose would be served by keeping the accused in JC. As such, it is prayed that he be granted regular bail.

On the other hand, reply is filed by the IO as also argued by learned Addl.PP for the State that present case relates to a false

racket for job in Indian Railway in which present applicants played active role in the conspiracy. Further, the accused persons even carried out certain false and bogus recruitment process and even the victim side paid certain amount to the accused side. Investigation is pending in this case. That on 21/09/2020 present accused was arrested. He is named in the FIR; that he never cooperated with the investigation; that cheated amount is not yet recovered.

In the present case there are serious allegations against the present applicant. Further, this case relates to a large conspiracy involving many victims in bogus recruitment racket involving many accused relating to Indian Railway Jobs. *Further, even the action of certain alleged victims is not about suspicion.* It appears they were giving bribe to the accused side to secure some job in Indian Railway. But ultimately it is found that accused did not have the capacity to secure such job. Investigation is still pending. Therefore, having regard to the nature of allegations against the accused persons and the nature of offence, this court is not inclined to grant the relief sought in the present application. With these observation, present application is dismissed.

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

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 sent to concerned Jail Superintendent. Further, copy of this order be uploaded on website.

(Naveen Kumar Kashyap)
ASJ-04/Central/Delhi/07/11/2020

Bail Application No.: 1594/2020
State Vs Vinay Verma
FIR No. 196/2019
PS.: Rajinder Nagar
U/s: 420, 34 IPC

CANo 437/2019
Nikhil Kapoor and Ors Vs Shubhi Gupta

07.11.2020

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.

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

This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.

Present: None.

Further part order dictated on this physical hearing date of this court.

Put up for further dictation and pronouncement of order on the next physical hearing date i.e. **12/11/2020**.


(Naveen Kumar Kashyap)
ASJ/04/Central/07.11.2020

1. **Crl. Revision: 323/2019**
Deepak Kumar Mangotra v. Shameem Ahmed

07.11.2020

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 holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Sh. Satish Aggarwal, Ld. Counsel for revisionist through VC.
None for respondent.

Put up for appearance of respondent and arguments, if any
from respondent side, if any on **27.11.2020**.

(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

**Crl. Revision: 322/2019
G.K. Sarkar v. Shameem Ahmed**

07.11.2020

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 holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Sh. Satish Aggarwal, Ld. Counsel for revisionist through VC.
None for respondent.

Put up for appearance of respondent and arguments, if any
from respondent side, if any on **27.11.2020**.

**(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020**



CA No. 108/2020
Mohd. Asif Vs Govt of NCT of Delhi

07.11.2020

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.

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

This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.

Present: Mr. M.K. Bansal, learned counsel for the appellant in person.
Mr. Gyan Prakash, learned Substitute Addl.PP for the State.

It is reflected from the record that the file was received in this Court during lockdown on 30/09/2020. However, inadvertently the order of registration could not be mentioned on the first order sheet. The same is correctly accordingly.

Vide separate order, the present appeal is allowed. TCR be sent back with copy of the order. Appeal file be consigned to record room after completion of all other necessary formalities.


(Naveen Kumar Kashyap)
ASJ-04/Central/07.11.2020

**IN THE COURT OF MR. NAVEEN KUMAR KASHYAP,
ADDITIONAL SESSIONS JUDGE-04, CENTRAL DISTRICT
TIS HAZARI COURTS, DELHI**

Unique I D No. : DL CT01-04483-2020
Criminal Appeal No. : 108/2020

**Mohd Asif
S/o Barqat Ali
R/o H.No. 7405, Gali Lalan Wali
Qureshi Ngar, Sadar Bazar,
North, Delhi**

.....Appellant

versus

- 1. The State (NCT of Delhi)**
- 2. The Director of SGACC Tis Hazari
Delhi-54.**

.....Respondents

Appeal received by Court: 30/09/2020
Arguments concluded : 28/10/2020
Date of judgment : 07/11/2020

J U D G M E N T

1. The present appeal has been filed by the appellant/convict Mohd. Arif against judgment in summary trial dated 06/01/2020 passed by learned MM-04 Mr. Chander Mohan, Central District, Tis Hazari Court, Delhi, whereby, the learned Trial Court accepted the plea of guilty of the accused and thereafter, sentenced him with fine of Rs. 500/-. Further the

vehicle of the accused was forfeited to State as it is stated by learned MM that such court has apprehension that vehicle may be used for similar purpose in future.

2. The notice of the appeal was issued to the State/respondent and the trial court record was summoned. The respondent / State chose not to file any reply in writing.

3. I have heard submissions and perused the record including trial court record.

4. At the very outset, Ld. Counsel for the appellant submitted that the accused voluntarily pleaded guilty for the commission of above said offences under the prevention of Cruelty to Animal Act, 1960 before the Ld. Trial court and hence the present appeal has been filed u/s 375 (b) CrPC and he is only assailing the extent of the sentence as passed by Ld. Trial court u/s 375 (b) CrPC, that too so far it relates to forfeiture of vehicle in question to State. As such, he is neither challenging his conviction nor the fine imposed. But he challenging only the forfeiture of vehicle in question to State by Learned Trial Court.

5. The Ld. Counsel for appellant / convict argued, in nutshell, that bonafidely the accused pleaded guilty in order to early release of his animals as the same were the only source of income, as livelihood of the accused / appellant is dependent upon the milk of such animal sold. It is



further argued that the condition of DSPCA is not safe for the animals and the employee of the DSPCA could not look after properly the animals, due to which most of the animals were died. Further it is prayed that this Court may be pleased to set aside the order in question and order for release of vehicle in question.

6. On the other hand, Learned Addl.PP for State argued that the learned Trial Court rightly passed the sentence in question and there is no infirmity in the same that the condition of animal was very unsatisfactory. As such, it is argued that there is no occasion to interfere with the order on sentence in question regarding forfeiture of the animals in question to the State.

7. As discussed above, ultimately it is stated by the learned counsel for the accused that the present appeal has been filed u/s 375 (b) Cr.PC and has been pressed qua only to the extent of the sentence imposed upon the appellant/convict vide order in question that too relating to forfeiture of vehicle only. The learned Counsel for the appellant during arguments has assailed only such portion of the sentence.

8. The learned counsel for the appellant has rightly drawn the attention of this court to sub section 1 and 2 of the section 29 of Prevention of Cruelty to Animals Act, 1960. The same is reproduced

below for ready reference;

“(1) If the owner of any animal is found guilty of any offence under this Act, the court, upon his conviction thereof, may, if it thinks fit, in addition to any other punishment, make an order that the animal with respect to which the offence was committed shall be forfeited to Government and may, further, make such order as to the disposal of the animal as it thinks fit under the circumstances.”

“(2) No order under sub-section (1) shall be made unless it is shown by evidence as to a previous conviction under this Act or as to the character of the owner or otherwise as to the treatment of the animal that the animal, if left with the owner, is likely to be exposed to further cruelty.”

9. On a bare reading of such sub section 2 of such section 29, it is clear that no order under sub section 1 thereof can be passed by the court as to disposal of **animal** as it think fits, unless it is **shown by evidence** as to previous conviction under this act or as to character of the owner or otherwise, as to the treatment of the animal that the animal, if left with the owner is likely to be exposed to further cruelty.

10. In these background, coming to the fact of the present case, no such pre conditions, as mentioned in sub section 2 of section 29, appears from record. Conviction of the accused was recorded in summary trial register. Further on perusal of sentence, no such satisfaction of trail court is recorded. In fact, there is no evidence as to previous conviction of the present accused on record or regarding the adverse character of the



owner / appellant or otherwise, as to the treatment of the animal. No opportunity whatsoever was given to appellant regarding his previous conviction, character or otherwise incriminating material against him, which could have been ground to take such extreme action as section 29(2). Further learned counsel forfeited the vehicle in question which is not even dealt in such section 29. As such, the order regarding forfeiture of vehicle in question is liable to be set aside as it has failed to satisfy the sub section 2 of section 29 of the Act and infact is not covered within the scope thereof. Accordingly, the order of sentence to that extent is set aside. Consequently forfeited vehicle bearing No. DL 4C AG 5632 be handed over to the appellant.

11. With these observation, order on sentence is set aside accordingly. The present appeal as filed by the appellant is allowed accordingly. With these directions, the appeal stands disposed of and the TCR be sent back with copy of the judgment. Appeal file be consigned to record room after completion of all other necessary formalities.

**Announced in the open
Court on 07/11/2020**

**(NAVEEN KUMAR KASHYAP)
ASJ-04/Central/Revision
Court/DELHI/07/11/2020**