Bail Application

Bail Matters No.: 1125/2020
State Vs Ashwani s/o Jai Prakash
FIR No. : 73/2020
PS: Nabi Karim
U/S: 307, 323, 34 IPC

09/09/2020

Today, this court is holding physical hearing as per directions.

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State.
Mr. Arvind Kumar, learned counsel from for Accused through VC.

Vide this order, the regular bail application dated 07/09/2020 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 form 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.

FIR No. : 73/2020
PS: Nabi Karim
U/S: 307, 323, 34 IPC

In the present case, it is submitted on behalf of the accused that he joined the investigation as per the direction of the SHO on 22/08/2020 and he was arrested thereafter on 24/08/2020; that no PC remand was sought and he was sent to JC. As such, no custodial investigation is required in present case; that complainant and his associates are anti-social ailments of the area and they have implicated the present accused in the present case; that injured was discharged from the hospital on the next date, therefore, section 307 IPC is not made out. No recovery is to be affected from the accused or at his instance. There is no criminal record of the present accused. That he is permanent resident of Delhi. That co-accused was already released on bail, therefore, on parity also he be granted bail.

On the other hand, it is stated in the reply filed by SI Bijender Singh, as also argued by the learned Addl.PP for the state, that there are serious and specific allegations against the present accused; that he stabbed in the stomach, waist and right hip of Naim Khan / complainant with knife and then ran away from the spot. That such complainant and his associates were admitted in government hospital. That later on such Naim Khan gave supplementary statement u/s 161 Cr.PC stating that accused side shouted that they would kill him and attacked with intension to kill him. As such, section 307 IPC was added. That nature of injury as per doctor is simple. That such accused is a habitual offender and one more FIR is registered against him. That knife used in the commission of offence is yet to be recovered. That he may threaten the witness / complainant if granted the bail and even may jump the bail.

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

It is rightly argued by the learned Addl. PP for the State that role of present accused is different from that of another accused

Ehsan. The role of co-accused Ehsan was underlying in the previous bail order concerned dated 20/05/2020. Whereas, as such present accused is concerned, he is the aggressor and stabbed the complainant as per the prosecution case. Further, it is stated that there are some CCTV footage also in this regard. Thus, the offence committed by the accused is serious in nature. Further, investigation still going on. 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. Further, both the sides are 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, copy of this order be also sent to concerned Jail Superintendent. Further, a copy of this order be also uploaded on the website.

(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi
09/09/2020

...i Prakash
FIR No. : 73/2020
PS: Nabi Karim
U/S: 307, ...

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

State v. Irshad @ Katta S/o Sh. Sokat
FIR No. : 011208/2020
P. S. : Paharganj
U/s: 379, 411 IPC

09.09.2020.

This court is holding physically today as per directions.
This court is also discharging bail roster duty.

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

Ms. Priyanka, Ld. Counsel for accused/applicant.

Vide this order, regular bail application u/s 439 Cr.PC dated 07.09.2020 filed by applicant through counsel is disposed of.

It is stated in the application that he has been falsely implicated in the present case; that he has no previous conviction record; that he is the only bread earner of his family; that his regular bail application was dismissed by learned MM on 05.09.2020.; that he will not tamper with the evidence or threaten the witness; that he is ready to join investigation as and when directed; that he is in JC since 19.08.2020; as such, even the time to seek PC remand is over; that no purpose would be served to keep him in JC. That he is no more required for the purpose of investigation. As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by the IO, as also argued by learned Addl.PP for the State it is stated that a number of criminal cases against him. That he was arrested based on disclosure statement made by him regarding the present offence in another criminal case in which he was arrested earlier. That it is stated that he may threaten the witnesses or may jump the bail. That his family has no control over him.

I have heard both the sides.

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

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after convictions, and that every man is 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).**

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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, the maximum punishment of the offences alleged against the present accused is 3 years. It is a matter of record that

accused is in JC for about three weeks. In fact, the period for seeking police remand is already over. As such, no purpose would be served by keeping such accused in JC. Investigation and thereafter trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case in India i.e. an accused is presumed innocent unless proved guilty. In present case, no previous conviction record is placed on record by the IO and at best there are cases alleging involvement of present accused in other similar cases.

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

i) *Applicant shall not flee from the justice;*

ii) *Applicant shall not tamper with the evidence;*

iii) *Applicant shall not threaten or contact in any manner to the prosecution witnesses ,*

iv) *Applicant shall not leave country without permission;*

v) *Applicant shall convey any change of address immediately to the IO and the court;*

vi) *Applicant shall also provide his mobile number to the IO;*

vii) *Applicant shall mark his attendance before concerned IO (and if IO is not available then to concerned SHO) every alternative /second day through mobile by sharing his/her location with the SHO concerned till the chargesheet is filed;*

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

ix) *Applicant shall keep their such mobile number*

'Switched On' at all the time, particularly between 8 am to 8 pm everyday till the chargesheet is filed

x) *That applicant will cooperate with the investigation / IO / SHO concerned and will appear before IO / Trial Court as and when called as per law.*

xi) *Applicant will not indulge in any kind of activities which are alleged against him in the present case.*

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

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

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

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

I note that in the present case the bail bonds have been

directed to be furnished before the Ld. Trial Court/ Ld. MM and hence in terms of the above observations, the Ld. MM is impressed upon to inform this court about the following:

a) *The date on which conditions imposed by this court are satisfied;*

b) *The date of release of prisoner from jail;*

c) *Date of ultimate release of prisoner in case the prisoner is in jail in some other case.*

The copy of this order be sent to **Ld. MM** and also to the **Superintendent Jail** who shall also inform this court about all the three aspects as contained in the para herein above. The Superintendent Jail is also directed to inform this court if the prisoner is willingly not furnishing the personal bond or in case if he is unable to furnish the surety or any other reason given by the prisoner for not filing the bonds. One copy of this order be also sent to the **SHO Concerned** to ensure compliance.

The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain order through electronic mode. Copy of this order be also sent to Jail Superintendent concerned through electronic mode.

(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi
09.09.2020

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

BAIL APPLICATION

FIR No.: 261/2020
PS: Chandni Mahal
STATE V Sayad Soud Hasan (Hussain) @ Bilal Hasan
U/S: 25, 54, 59 Arms Act

09.09.2020.

This court is holding physically today as per directions.
This court is also discharging Bail Roster Duty.

Present: Sh. Pawan Kumar,Ld. Addl. PP for the State
Sh. Y.K. Gautam, Ld. counsel for applicants/accused

Vide this order, regular bail application of accused **Sayad Soud Hasan (Hussain) @ Bilal Hasan** u/s 439 Cr.PC dated 07.09.2020 filed through their counsel is disposed of.

The grounds in the present application is that he is falsely implicated in the present case; that he is in JC since 07.08.2020; that his bail application is already rejected by learned MM vide order dated 04.09.2020; that the recovery of arms is planted upon him; that in any case he is no more required for investigation; that there is spread of corona virus including inside the jail; that investigation is already complete qua the accused person and no purpose would be served to keep him in JC; that most of the witnesses are police officials only, as such there is no chance of threatening the witness. As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by ASI Dev Dass Meena, as also argued by the learned Addl.PP for the State, it is stated that present accused was found in suspicious circumstances and on search a buttondar knife was recovered from his right pocket of the pant. That he told the police that he is a drug addict and commit small crimes like snatching, theft etc. He further disclosed that he wants to take revenge from one person namely Shakid @ Totla. That he is a BC of the PS Daryaganj and

not under the control of the family. That he is involved in a number of criminal cases of theft etc.

I have heard both the sides and 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).**

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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 imprisonement 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, the maximum punishment of the offences alleged against the present accused is less than 7 years. It is a matter of record that accused were arrested on 06.08.2020. As such, it can be noted

that even the period to seek police custody remand is now over. Further, both the accused are in JC. Further, it is a time tested basic law that such disclosure statement given to police is having no legal value except as saved u/s 27 of Indian Evidence Act, which is not the case at present that anything is covered / recovered as a result of such disclosure statements. It may be noted that as per the story of the prosecution Arms / case property were already recovered before even making such disclosure statement. Be that as it may, as far as present accused is concerned, nothing remains to be recovered at his instance. Further all the witnesses are police witnesses also, therefore, there is no possibility of threatening th witness also.

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

i) *Applicant shall not flee from the justice;*

ii) *Applicant shall not tamper with the evidence;*

iii) *Applicant shall not threaten or contact in any manner to the prosecution witnesses ,*

iv) *Applicant shall not leave country without permission;*

v) *Applicant shall convey any change of address immediately to the IO and the court;*

vi) *Applicants shall also provide his/her mobile number to the IO;*

vii) *Applicant shall mark his /her attendance before concerned IO (and if IO is not available then to concerned SHO) every alternative /second day through mobile by sharing his/her location with the SHO concerned till the chargesheet is filed;*

viii) *Applicant shall further make a call,*

preferably by audio plus video mode to concerned IO, (and if IO is not available then to concerned SHO) once a week, preferably on Monday between 10 a.m. to 5 p.m. till the chargesheet is filed.

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

x) *That he / she will cooperate with the investigation / IO / SHO concerned and will appear before IO / Trial Court as and when called as per law.*

xi) *He will not indulge in any kind of activities which are alleged against him / her in the present case.*

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

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

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

a) *In case of inability of a prisoner to seek release despite an order of bail, it is the judicial duty of the trial courts to undertake a review for the reasons thereof.*

b) *Every bail order shall be marked on the file.*

c) *It shall be the responsibility of every judge issuing an order of bail to monitor its execution and enforcement.*

d) *In case a judge stands transferred before the execution, it shall be the responsibility of the successor judge to ensure execution.....*"

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

1. *The date on which conditions imposed by this court are satisfied;*
2. *The date of release of prisoner from jail;*
3. *Date of ultimate release of prisoner in case the prisoner is in jail in some other case.*

The copy of this order be sent to **Ld. MM** and also to the **Superintendent Jail** who shall also inform this court about all the three aspects as contained in the para herein above. The Superintendent Jail is also directed to inform this court if the prisoner is willingly not furnishing the personal bond or in case if he is unable to furnish the surety or any other reason given by the prisoner for not filing the bonds. One copy of this order be also sent to the **SHO Concerned** to ensure compliance.

The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain order through electronic mode. Copy of order be also sent to Jail Superintendent concerned through electronic mode.

(NAVEEN KUMAR KASHYAP)
ASJ-04/Central/THC
09.09.2020

BAIL APPLICATION

State v. Mohd. Salman Qureshi
FIR no.: Unknown
PS: Kotwali
U/S: Unknown

09.09.2020

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Sh. Hemant Chaudhary, Ld.counsel for applicant.

This is an application u/s 438 Cr.P.C.

Reply filed by HC Ram Avtar PS Kotwali.

Heard.

The accused/applicant Mohd. Salman Qureshi is directed to join investigation as and when called by the IO in the present FIR no. 759/2020 in PS kotwali in question.

Further, in view of the provision of Section 41A Cr.P.C., directions of Hon'ble Supreme Court in Arnesh Kumar case, IO is directed not to take any coercive steps till next date of hearing only.

Put up for further arguments and appropriate orders on 16.09.2020.

Copy of this order be sent to IO/SHO concerned as well as counsel for applicant through electronic mode.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

BAIL APPLICATION

State v. Rohit Yadav
FIR No: 0195/2020
PS: Kashmere Gate

09.09.2020

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

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

Reply filed. Copy of the same be supplied to the applicant side during the course of the day.

Put up for arguments and appropriate orders through VC on 14.09.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

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

State v. Pradeep @ Podi
FIR No. : 005605/2020
P. S. : Paharganj
U/s: 379, 411 IPC

09.09.2020.

This court is holding physically today as per directions.

This court is also discharging bail roster duty.

Present: Mr. Pawan Kumar, Learned Addl. PP for State.
Sh. Manish Kumar, Ld. Counsel for accused/applicant.

Vide this order, regular bail application u/s 439 Cr.PC dated 08.09.2020 filed by applicant through counsel is disposed of.

It is stated in the application that he has been falsely implicated in the present case based on e-FIR; that he has no previous conviction record; that now he was working in LNJP hospital on contract basis; that his regular bail application was dismissed by learned MM on 01.09.2020.; that he will not tamper with the evidence or threaten the witness; that he is ready to join investigation as and when directed; that he is in JC since 05.08.2020; as such, even the time to seek PC remand is over; that no purpose would be served to keep him in JC. That he is no more required for the purpose of investigation. As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by the IO, as also argued by learned Addl.PP for the State it is stated that a number of criminal cases against him. That he was arrested and stolen motorcycle was recovered from him. That it is stated that he may threaten the witnesses or may jump the bail. That his family has no control over him.

I have heard both the sides.

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

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after convictions, and that every man is 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 form 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, the maximum punishment of the offences alleged against the present accused is 3 years. It is a matter of record that

accused is in JC for about three weeks. In fact, the period for seeking police remand is already over. As such, no purpose would be served by keeping such accused in JC. Investigation and thereafter trial is likely to take time. Further, it may be noted that there is fundamental presumption of innocence in any criminal case in India i.e. an accused is presumed innocent unless proved guilty. In present case, no previous conviction record is placed on record by the IO and at best there are cases alleging involvement of present accused in other similar cases.

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

i) *Applicant shall not flee from the justice;*

ii) *Applicant shall not tamper with the evidence;*

iii) *Applicant shall not threaten or contact in any manner to the prosecution witnesses ,*

iv) *Applicant shall not leave country without permission;*

v) *Applicant shall convey any change of address immediately to the IO and the court;*

vi) *Applicant shall also provide his mobile number to the IO;*

vii) *Applicant shall mark his attendance before concerned IO (and if IO is not available then to concerned SHO) every alternative /second day through mobile by sharing his/her location with the SHO concerned till the chargesheet is filed;*

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

ix) *Applicant shall keep their such mobile number*

'Switched On' at all the time, particularly between 8 am to 8 pm everyday till the chargesheet is filed

x) *That applicant will cooperate with the investigation / IO / SHO concerned and will appear before IO / Trial Court as and when called as per law.*

xi) *Applicant will not indulge in any kind of activities which are alleged against him in the present case.*

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

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

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

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

I note that in the present case the bail bonds have been

directed to be furnished before the Ld. Trial Court/ Ld. MM and hence in terms of the above observations, the Ld. MM is impressed upon to inform this court about the following:

a) *The date on which conditions imposed by this court are satisfied;*

b) *The date of release of prisoner from jail;*

c) *Date of ultimate release of prisoner in case the prisoner is in jail in some other case.*

The copy of this order be sent to **Ld. MM** and also to the **Superintendent Jail** who shall also inform this court about all the three aspects as contained in the para herein above. The Superintendent Jail is also directed to inform this court if the prisoner is willingly not furnishing the personal bond or in case if he is unable to furnish the surety or any other reason given by the prisoner for not filing the bonds. One copy of this order be also sent to the **SHO Concerned** to ensure compliance.

The bail application is accordingly disposed off. Learned counsel for applicant is at liberty to obtain order through electronic mode. Copy of order be also sent to Jail Superintendent concerned through electronic mode.

(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi
09.09.2020

Bail Application

Bail Matters No.: 2352/2020
State Vs Vipul Malhotra @ Dabbu
FIR No. : 129/2020
PS: Pahar Ganj
U/S: 376, 506 IPC

09/09/2020

Today, this court is holding physical hearing as per directions.

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State.
Mr. Anil Kumar, learned counsel for the applicant / accused in person.
Complainant in person with her mother.

Vide this order, the regular bail application under section 439 Cr.P.C. on behalf of accused Vipul Malhotra @ Dabbu dated 04/09/2020 filed through counsel is disposed off.

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

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

protects life and liberty ,but also envisages a fair procedure. Liberty of a person should not ordinarily be interfered with unless there exist cogent grounds 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 form 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 was arrested on 06/06/2020 and he is in JC since then; that present complainant did not file a single police complaint against the accused / applicant before registration of the present FIR; that accused did not commit any sexual assault upon the complainant as otherwise alleged in the present FIR; that on the contrary friendship developed between the accused and the present complainant through telephone and there are some meetings also between the two; that complainant started compelling accused to marry her but when accused showed his inability at present, she threatened to implicate him in false case; that present case is filed at the instigation of the mother of the complainant; that complainant is major, educated and very well aware

about what she is doing or not; that there are contradiction in the statement u/s 164 Cr.PC viz-a-viz with her earlier statement given by the complainant; that chargesheet is already filed. As such, accused is no more required for the purpose of investigation. That complainant refused her internal medical checkup as stated in the MLC itself. That nothing as alleged by the complainant took place. That accused's house is a small house and his father is a cancer patient and is bed ridden and it is not possible to commit such crime as otherwise claimed. There is no criminal background of the accused. That he has roots in the society.

On the other hand, reply filed by SI Khadak Singh as also argued by the learned Addl.PP for the State, it is stated that complainant is mentally disturbed to some extent; that accused developed friendship with her and started calling her at her house; that he forcefully established physical relationship with her; that he even started extorting money from her stating that he needs the same for liquor and if such money is not given, he will tell the family members of the complainant and that way he started blackmailing her; that mother of the complainant over heard the conversation between the complainant and the accused and she reported the matter to the police; that offence is serious in nature; the consent of the victim / complainant was forcefully obtained and particularly having regard to her mental condition, it was not free in any case. Further, as last physical forceful relation took place sometime ago, therefore, refusal of the complainant about medical examination is not of material consequence in any case.

Further, complainant and her mother are heard in person in court separately as well as jointly. Prima-facie it appears that such complainant is not confident in replying the queries put to her by the court. It further appears from record that there some psychological / behavioral abnormality to some extent in the reply given by the present complainant and she is under stress. Further, it is stated by the mother of the complainant that although she is major but

earlier she was treated for mild mental retardation in 2013. Further, offence is serious in nature and there appears, prima-facie, the element of extortion also. Under these circumstances, having regard to the nature of allegations made and the stage of the present case, this court is not inclined to grant the relief as sought in the present application. Hence, the same is dismissed.

With these observations present bail application is disposed of as dismissed. Further, both the sides are 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, copy of this order be also sent to concerned Jail Superintendent. Further, a copy of this order be also uploaded on the website.

(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi
09/09/2020

Bail Matter No.: 1133/2020
FIR No: 201/2020
PS: Pahar Ganj
State v. Ravinder Singh @ Chiku
U/s : 376 IPC

09.09.2020

Today this court is holding physically hearing as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Mr. Atul Kumar Sharma, learned counsel for applicant / accused Ravinder Singh @ Chiku.

It is stated that present bail application dated 07/09/2020 is filed at the request of wife of accused / Parokar Mrs. Inderjeet Kaur.

It is further stated that it appears that another application for the same accused is also pending already for 11/09/2020.

As such, at request, put up for further appropriate order for **11/09/2020** itself through VC.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

Bail Application No.:2259/2020
FIR No: 142/2020
PS: DBG Road
State v. Deepak @ Rahul

09.09.2020

Today this court is holding physically hearing as per directions.

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

Trial Court record not received.

Issue fresh notice to filing counter / Ahlmad of concerned for tomorrow.

Put up for orders on the present bail application / clarification accordingly for **10/09/2020**.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

Bail Application of Vasudev Prasad
FIR No: 130/2014
PS: Kamla Market
State v Raj Bahadur & others
U/s: 419, 420, 365, 392, 412, 207, 120B, 34 IPC

09.09.2020

This court is discharging duty of Bail Roster. This court is holding physically court today as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Mr. Vikas Padora, learned counsel for applicant / accused Vasudev Prasad.

Sometime is sought by learned Addl.PP for the State to clarify regarding previous bail application moved by the present accused as well as role of the present accused viz-a-viz role of co-accused Raj Bahadur as per the case of the prosecution.

At request, put up for further argument, clarification and orders for **15/09/2020**. Learned counsel for the accused is at liberty to address arguments through VC or through physical hearing as per his choice.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

Bail Application
FIR No: 327/2016
PS: Roop Nagar
State v Ram Nawal

09.09.2020

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

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

Today the case was fixed for order on regular bail application dated 18/08/2020. But certain clarification is required including regarding whether accused is on interim bail at present or in JC in the present case.

Put up for clarification, further appropriate orders on the present bail application for **16/09/2020** through VC.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

Bail Application

State Vs. Raju Ram Nehra s/o Mr. Rattan Lal Ji Nehra
FIR No. : 213/2018
PS: Lahori Gate
U/S: 395, 412, 34,120B IPC

Today, this court is holding physical hearing as per directions.

09.09.2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State.
Mr. Rahul Kumar, learned Counsel from for accused in person.

Vide this order, the regular bail application under section 439 Cr.P.C. on behalf of accused dated 14/08/2020 filed through counsel is disposed of.

I have already 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 form 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 co-accused Hari

Ram is already granted regular bail and other co-accused granted interim bail. It is further claimed that present accused is on better footing and deserves bail on the ground of parity. It is further stated that present accused was not there on the date of incident rather he was in Rajasthan. At best allegations of conspiracy are alleged against him. That he was not assailant. Further no cash was recovered from him except the planted once. That a number of witnesses are yet to be examined. That he is in JC for more than 1 and ½ years. That he does not have any criminal record. 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 serious and specific allegations against the present accused; that he conspired with others to commit dacoity of Rs. 35 Lakh; that his presence is captured in cctv footage near the place of occurrence; that his mobile location is also near the place of occurrence; that he refused to participate in the TIP but later identified by the complainant; that case is at the stage of PE and public witnesses are yet to be examined. It is further stated that his regular bail applications are dismissed on a number of occasions including on 17/09/2019 and recently on 23/07/2020 i.e. even after granting of regular bail to the co-accused Hari Ram on 23/05/2020. As such, it is stated that there is no material change in circumstance at all since dismissal of last regular bail application on 02/07/2020.

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. There are specific and serious allegations against the accused. Public witnesses including the complainant is not yet examined. Further, after the bail granted to co-accused Hari Ram, it is matter of record that regular bail application of present accused is already dismissed. Further, regular bail application of co-accused

Vipin Sharma is also dismissed on 27/07/2020. there is no material change in circumstance since dismissal of the last bail application of present accused. Further, it may be noted that co-accused Hari Ram was granted bail by the bail duty learned Judge based on the facts relating to that accused only. As such, this court is not inclined to grant the relief as sought in the present application. Hence, the same is dismissed.

With these observations present bail application is disposed of as dismissed. Further, both the sides are 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, copy of this order be also sent to concerned Jail Superintendent. Further, a copy of this order be also uploaded on the website.

(Naveen Kumar Kashyap)
ASJ-04(Central)/Delhi/09/09/2020

INTERIM BAIL APPLICATION

State Vs. Saleem
FIR No.: 655/2016
PS: Sarai Rohilla
U/S: 394,397,302, 34 IPC

09.09.2020

Present: Mr Pawan Kumar, Ld. Addl. PP for the State.
Learned counsel for Accused.

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

2. Vide this order, the application was for interim bail dated 27.08.2020 filed by accused Saleem is disposed of.

3. Reply already filed by the IO.

4. Arguments heard already

5. It is argued on behalf of the accused that he is in JC since 23.10.2016. That there is no previous conviction record of the accused. That he has old aged mother and there is nobody to look after her during her pandemic condition. It is further stated that brother of the accused is also a mental patient and has gone in comma two times. That father of the accused has already expired and there is nobody to look after the brother and the mother. It is further stated that material witnesses are already examined that he is permanent resident of Delhi. As such, it is prayed that he be granted interim bail for 45 days. Further, medical document relating to brother is also enclosed.

6. As per report of IO there is criminal involvement of accused in three other criminal matters.

7. Thus, he does not fall under the relaxed criteria dated 18/05/2020 of the Hon'ble High Court, as there is other criminal involvement of present accused. As such, he cannot be given banefit of the same.

8. Further on merit, it is argued by the State that offence is serious in nature under section 302 IPC and there are specific evidence against accused; that he is involved in a robbery matters also. As such present interim bail application is opposed.

9. Accused is charged with offence u/s 302 IPC which has a minimum punishment for life imprisonment. He is involved in other criminal matters also. Therefore, although the fact that the mother is old and brother has some medical probelm is not denied. But having regard to the nature of offence, and nature of allegations against him which carries minimum punishment for life, this court is not inclined to grant interim bail at this stage for the reasons stated in such application.

10. Copy of this order be given to learned counsel for applciation through electronic mode. Copy of this order be also sent to Jail Superintendent concerned through electronic mode.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
Central District/09.09.2020

SC:27348/2016
FIR No: 531/2015
PS:Sarai Rohilla
State v Mohd. Javed @ Ganju & ors.

09.09.2020

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 hearings were 27/02/2020, 13/05/2020 & 09/07/2020. 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. Pawan Kumar, learned Addl.PP for State.
None for accused.

In the interest of justice, no adverse order is passed in the present case.

In terms of previous order put up for PE for **02/12/2020**. Issue production warrant for accused who are in JC through electronic mode or as per the situation permits for the next date of hearing. Also issue notice to two of the material witnesses for the next date of hearing.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

CR No. 80/19
Anil Kumar Gupta Vs Man Singh Tanwar

09.09.2020

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 hearings were 20/01/2020, 09/04/2020, 13/05/2020 & 09/07/2020. 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: None.

In the interest of justice, no adverse order is passed in the present case.

In terms of previous order, put up for further proceedings for **02/12/2020**.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

At this stage, Mr. R.K. Sharma, learned counsel has appeared and has placed on record fresh Vakalatnama as well as track report regarding service of respondent. As per which, respondent is served on his both addresses.

Put up for appropriate order in this regard also on the date already fixed i.e. 02/12/2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

CR No.: 166/2019
Suman Sen Gupta vs State & others

09.09.2020

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 hearings were 04/02/2020, 13/05/2020, 09/07/2020. 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: Appellant in person.

Mr. Pawan Kumar, learned Addl.PP for State / respondents.

None for other respondents.

Previous order be complied with.

In terms of previous order, put up for **02/12/2020**.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

SC: 12/2020
FIR No: 109/2017
PS: Hauz Qazi
State v. Rajesh Kumar etc.

09.09.2020

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 was 20.03.2020,13.05.2020,09.07.2020.

On 09.07.2020, matter was adjourned for 09.09.2020.

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 today through VC.

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Sh. S..B. Pattnaik, Ld. Counsel for all the accused.
Accused no.3 is not present.
All the three accused are on bail.

Some more time sought to approach Hon'ble High Court to quash the present proceedings.

Put up for further proceedings on 03.12.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

CA No.: 17/2020
Jaspal Singh Vs State

09.09.2020

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 hearings were 19/03/2020, 09/04/2020, 13/05/2020 & 09/07/2020. 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: Appellant in person.

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

Appellant has submitted that he does not have private counsel.

In view of the submissions, he be provided LAC counsel as per rules.

Put up for purpose fixed in terms of previous order for **03/11/2020**. Interim order to continue till next date of hearing.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

SC:794/2019
FIR No: 85/2011
PS: Civil Lines
State v Safdar Ali @ Sibbu & Anr.

09.09.2020

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 hearings were 28/01/2020, 09/04/2020, 13/05/2020 & 09/07/2020. 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. Pawan Kumar, learned Addl.PP for State.

Accused No.1 & 2 Safdar Ali @ Sibbu & Parvez are already declared PO.

Accused No.3 Iqbal stated to be on bail but not present today.

Mr. Yogender Singh, learned counsel for accused No.3.

In terms of previous order put up for arguments on the point of charge through VC or through physical hearing as per the situation permits.

Put up for **03/12/2020**.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

SC: 28171/2016
FIR No: 146/2013
PS: Sadar Bazar
State v Rohit & Anr

09.09.2020

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 hearings were 03/02/2020, 09/04/2020, 13/05/2020 & 09/07/2020. 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. Pawan Kumar, learned Addl.PP for State.

Mr. J.S. Mishra, learned LAC for both accused.

Accused No.1 Rohit is stated to be on bail.

Accused No.2 Manoj not present.

In terms of previous order put up for PE for **03/12/2020**. Also issue notice to two of the material witnesses for the next date of hearing.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

SC:28873/2016
FIR No: 106/2016
PS: Maurice Nagar
State v Naveen Uppal @ Sunny

09.09.2020

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 hearings were 19/03/2020, 09/04/2020, 13/05/2020 & 09/07/2020. 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. Pawan Kumar, learned Addl.PP for State.

Mr. Sanjay Kumar complainant in person with counsel Mr. Yash Mittal.

None for accused.

Accused is stated to be on interim bail.

In the interest of justice, no adverse order is passed in the present case.

In terms of previous order put up for PE for **04/12/2020**. Also issue notice to two of the material witnesses for the next date of hearing.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

SC:836/2017
FIR No: 182/2017
PS: Kamla Market
State v. Arshlan Ali

09.09.2020

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 was 01.02.2020 and 09.07.2020.

On 09.07.2020, matter was adjourned for 09.09.2020.

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 today through VC.

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
All accused are present on bail in person except accused Javed @ Raja with counsel.

No adverse order is passed against accused Javed @ Raja in the interest of justice.

Put up for compliance of previous order afresh/PE for 07.12.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

SC: 898/2017
FIR No: 135/2017
PS: ODRS
State v Sanju @ Chawmin

09.09.2020

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 hearings were 13/02/2020, 13/05/2020, 09/07/2020. 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. Pawan Kumar, learned Addl.PP for State.

Mr. J.S. Mishra, learned LAC for accused.

In terms of previous order put up for PE for **03/12/2020**. Issue production warrant for accused through electronic mode or as per the situation permits for the next date of hearing. Also issue notice to two of the material witnesses for the next date of hearing.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

SC:556/2019
FIR No: 366/2016
PS: Lahori Gate
State v. Mohd. Riyaz

09.09.2020

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 was 14.02.2020.

On 14.02.2020, matter was adjourned for 09.09.2020.

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 today through VC.

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

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

No adverse order is passed in the interest of justice.

Issue P/w of the accused, if any in JC for next date through VC or otherwise as the situation may prevail on next date of hearing.

Put up for PE in terms of previous order 05.12.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

SC:782/2019
FIR No: 231/2019
PS: Pahar Ganj
State v. Satish Chand Sharma & Anr.

09.09.2020

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 was 11.03.2020 and 09.07.2020.

On 09.07.2020, matter was adjourned for 09.09.2020.

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 today through VC.

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Mohd. Farman, proxy counsel for Sh. Chandra Gupta Maurya, Ld. Counsel for accused.

No adverse order is passed in the interest of justice.

Issue P/w of the accused, if any in JC for next date through VC or otherwise as the situation may prevail on next date of hearing.

Put up for PE in terms of previous order 05.12.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

SC:2730216
FIR No: 346/2011
PS: Sarai Rohilla
State v. Mahender & Ors.

09.09.2020

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 was 08.04.2020,12.05.2020 and 08.07.2020.

On 08.07.2020, matter was adjourned for 09.09.2020.

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 today through VC.

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

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

This case is at the stage of statement of accused.

No adverse order is passed in the interest of justice.

Issue P/w of the accused, if any in JC for next date through VC or otherwise as the situation may prevail on next date of hearing.

Put up for SA in terms of previous order 05.11.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

CA No. 129/2019
Yogesh Deshwal vs State of NCT of Delhi

09.09.2020

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 was 09/07/2020. 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: None for appellant.

Mr. Pawan Kumar, learned Addl.PP for State / respondent.

In the interest of justice, no adverse order is passed in the present case.

Put up for arguments in terms of previous orders for **05/12/2020**.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

SC No.: 28692/2016
FIR No: 348/2015
PS: Nabi Karim
State v. Lokesh & Anr

09.09.2020

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 hearings were 18/08/2020, 28/08/2020 & 31/08/2020 . 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. Pawan Kumar, learned Addl.PP for State.
Mr. Azad Singh, learned counsel for both accused persons.
SI Virender Kumar in person.

He explained about the efforts made by him to trace out the third accused in the present case. But it is stated that despite repeated efforts made by him, he could not trace out the third accused. The same is noted.

Today bail bond u/s 437(A) Cr.PC furnished.

Surety Rajiv Kumar for accused Lokesh Kumar is present, who is in Delhi Police. Surety Sandeep Parihar for accused Mohit Kumar is also present whose RC is retained on record.

Put up for judgment / clarification, if any, for 15/09/2020. Further, Jail Superintendent concerned is directed to produce both the accused through VC for the next date of hearing at 2:30 PM.

Ahlmad is directed to issue notice to Jail Superintendent concerned accordingly at the earliest.

Further, learned counsel for accused is at liberty to join through VC or physically as per choice.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

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

09.09.2020

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 was 09/07/2020. 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. Pawan Kumar, learned Addl.PP for State.
Mr. Ayub Ahmed Qureshi, learned counsel for accused through VC alongwith accused Shahnawaj @ Shanu through VC.

Present the matter is fixed for judgment / clarification.

No time left. Put up for final judgment / clarification for **15/09/2020**.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020

Crl. Revision: 2408/2020

09.09.2020

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Fresh revision petition received by way of assignment. It be checked and registered separately.

Present: None.

Put up for appearance of revisionist and other appropriate order through VC for 08.12.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/09.09.2020