FIR No.201/20 PS I.P. Estate State vs. Sunny Sethi

08.10.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of circular no. 992/30066-30235 DJ(HQ)/ Covid-19 Lockdown/Physical Courts Roster/2020 dt. 25.09.2020 issued by Ld. District & Sessions Judge (HQ).

Present:

Ld. APP for the State.

Sh. Anil Kumar, Ld. counsel for applicant/accused.

The present application was filed through email. Scanned copy of reply under the signatures of IO/ASI Sandeep Kumar is received, through email. Copy stands supplied to counsel for applicant, electronically.

Heard. Record perused.

This order shall dispose off the application for grant of bail u/s 437 Cr.P.C. moved on behalf of applicant/accused Sunny Sethi.

It is averred on behalf of accused/applicant that he has been falsely implicated in the present case. It is further averred that applicant is the permanent resident of Delhi and there is no chance of him absconding or tampering with the prosecution evidence. With these averments, prayer is made for grant of bail to accused.

Ld. APP for the State submits that the accused shall not be released on bail considering the seriousness of the allegations.

The allegations against the accused are serious in nature. The investigation of the case is still at its inception and charge-sheet is yet to be filed. Keeping in view the gravity of allegations and the initial stage of investigation, this court is of the firm view that no ground for grant of bail is made out to the accused/applicant at this stage. Accordingly, the present application deserves dismissal and same is hereby dismissed.

Copy of this order be sent to counsel for accused/applicant, through email.

One copy be also sent to IO/SHO concerned, for information.

One copy be sent to Computer Branch, THC for uploading on

Delhi District Court Website.

RISHABH KAPOOR KAPOOR Date:

Digitally signed by RISHABH KAPOOR Date: 2020.10.08

15:02:55 + 0530

FIR No.272/20 PS I.P. Estate State vs. Sunny Sethi

08.10.2020

(Through Video Conferencing over Cisco Webex Meeting)
Case taken up in view of circular no. 992/30066-30235 DJ(HQ)/ Covid19 Lockdown/Physical Courts Roster/2020 dt. 25.09.2020 issued by Ld. District & Sessions Judge (HQ).

Present:

Ld. APP for the State.

Sh. Anil Kumar, Ld. counsel for applicant/accused.

IO/ASI Sushil Kumar Tyagi.

The present application was filed through email. Scanned copy of reply under the signatures of IO/ASI Sushil Kumar Tyagi is received, through email. Copy stands supplied to counsel for applicant, electronically.

Heard. Record perused.

This order shall dispose off the application for grant of bail u/s 437 Cr.P.C. moved on behalf of applicant/accused Sunny Sethi.

It is averred on behalf of accused/applicant that he has been falsely implicated in the present case. It is further averred that applicant is the permanent resident of Delhi and there is no chance of him absconding or tampering with the prosecution evidence. With these averments, prayer is made for grant of bail to accused.

Ld. APP for the State submits that the accused shall not be released on bail considering the seriousness of the allegations.

It is also submitted that investigation of the case is still not complete and the TIP of proceedings have been fixed for 12.10.2020.

The allegations against the accused are serious in nature. The investigation of the case is still at its inception and charge-sheet is yet to be filed. Keeping in view the gravity of allegations and the initial stage of investigation, this court is of the firm view that no ground for grant of bail is made out to the accused/applicant at this stage. Accordingly, the present application deserves dismissal and same is hereby dismissed.

Copy of this order be sent to counsel for accused/applicant, through email.

One copy be also sent to IO/SHO concerned, for information.

One copy be sent to Computer Branch, THC for uploading on

Delhi District Court Website.

RISHABH KAPOOR Digitally signed by RISHABH KAPOOR Date: 2020.10.08 15:03:12

e-FIR No. 24275/20

PS I.P. Estate

State Vs. Unknown (through applicant Mohd. Mustfa)

08.10.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of circular no. 992/30066-30235 DJ(HQ)/ Covid-19 Lockdown/Physical Courts Roster/2020 dt. 25.09.2020 issued by Ld. District & Sessions Judge (HQ).

Present:

Ld. APP for the State.

Applicant Mohd. Mustafa in person.

IO/ASI Sushil Kumar Tyagi.

The present application was filed through email. Scanned copy of reply under the signatures of IO/ASI Sushil Kumar Tyagi is received through email. Copy stands supplied to counsel for applicant, electronically.

Heard. Record perused.

This order shall dispose off application for release of vehicle DL 7SAL 4483, moved on behalf of applicant Mohd. Mustafa.

In reply received under the signatures of IO/ASI Sushil Kumar Tyagi, it has been stated that the vehicle bearing no. DL 7SAL 4483 has been recovered in connection with the present case FIR and same is registered in the name of applicant Mohd. Mustafa. IO has stated that the investigation qua the vehicle is complete and he has no objection, if same is released on superdari.

The applicant has sent the scanned copy of RC of vehicle and and copy of his Adhar Card for the purposes of identity.

On perusal of the report of IO and documents appended with the application, the applicant Mohd. Mustafa prima facie appears to be the person entitled for custody of vehicle in question.

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

1. Vehicle in question be released to applicant/registered owner only subject to furnishing of indemnity bonds as per the valuation of the

vehicle, to the satisfaction of the concerned SHO/ IO subject to verification of documents.

- 2. IO shall prepare detailed panchnama mentioning the colour, Engine number, Chasis number, ownership and other necessary details of the vehicle.
- 3. IO shall take the colour photographs of the vehicle from different angles and also of the engine number and the chasis number of the vehicle.
- 4. The photographs should be attested and counter signed by the complainant/applicant and accused.
- 5. IO is directed to verify the RC and insurance of the vehicle in question and release the vehicle after getting it insured by the applicant if the same is not already insured.

Scanned copy of this order be sent to Counsel for applicant and to IO/SHO concerned through email.

One copy be sent to Computer Branch, THC for uploading on Delhi District Court Website.

RISHABH RISHABH KAPOOR KAPOOR Date:

signed by RISHABH KAPOOR Date: 2020.10.08 15:02:36

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Digitally

FIR No. 0008/2020 State vs. Vijay PS I.P. Estate

08.10.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of circular no. 992/30066-30235 DJ(HQ)/ Covid-19 Lockdown/Physical Courts Roster/2020 dt. 25.09.2020 issued by Ld. District & Sessions Judge (HQ).

Present:

Ld. APP for the State.

Sh.S.C. Joshi, Ld. counsel for applicant/accused.

Pursuant to directions issued on 07.10.2020, previous involvement report of accused is received through email. Copy of same is already supplied to Ld. counsel for applicant/accused, through email.

Heard. Record perused.

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

It is stated that the applicant is innocent and has been falsely implicated in the present case. It is a further averred that the alleged recovery has already been effected in the present case. It is further averred that the accused is not a previous convict and there are no chances of his tampering with any evidence. With these averments prayer is made for enlarging applicant on bail.

Ld. counsel for accused submits that the applicant/accused is undergoing judicial custody since 09.01.2020 and the charge-sheet has also been filed in the present case, therefore, the accused be released on bail.

Ld. APP for State has opposed the present application citing seriousness of allegations and made a prayer for dismissal of the present application.

The perusal of the record would reveal that applicant/accused was arrested in present case on 09.01.2020. Admittedly, the charge-sheet has already been filed in the Court and the matter is pending trial. The custodial interrogation of accused is not required in the present case nor any recovery is left to be effected from him. The trial of the case would take a long time and till then the liberty of the accused cannot be curtailed when his custody is as such not required for the investigation purposes. The previous involvement report of the accused would

reveal that the accused has never been involved in another case except the present case, therefore, there does not exists any apprehension that if enlarged on bail, the accused will misuse his liberty and will tamper with the prosecution evidence. Further, the accused has been undergoing detention in judicial custody since 09.01.2020. The presence of the accused during the course of trial can be ensured by taking sufficient sureties undertaking to ensure his presence. In these peculiar circumstances and more particularly taking into account the period of custody undergone by the accused, I am of the view that there exist no ground in further curtailing the liberty of the applicant/accused.

At this juncture, it is also pertinent to cite the observations made by the Hon'ble apex court In Sanjay Chandra versus CBI (2012) ISCC 40, wherein it was observed that the courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest 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 un-convicted persons should be held in custody pending trial to secure their attendance at trial but in such cases, necessity is the operative test. The Hon'ble Apex court further observed that in this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person 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 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 that it would be improper for any court to refuse bail as a mark of this approval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for purpose of giving him a taste of imprisonment as a lesson.

In the light of the discussion made above, I am of the view that the contentions of the prosecution appears to be untenable and as such, there exists no reasonable justification, in not enlarging the applicant/accused, on bail. Accordingly, the accused/applicant Vijay is hereby ordered to be enlarged on bail,

subject to following conditions;

- 1 That the applicant shall furnish personal and surety bonds in the sum of sum of Rs.15,000/- each to the satisfaction of Ld. Duty MM (on court duty).
- 2 That the applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing any facts to the court or the police;
- 3 That the applicant shall not tamper with the prosecution evidence nor he will try to win over the prosecution witnesses or terrorize them in any manner; and
- 4 That the applicant shall not deliberately and intentionally act in a manner which may tend to delay the investigation and trial of the case.
- 5 That the applicant shall not leave the territories of India during the pendency of present case proceedings except with the permission of the court.

The application is accordingly disposed off.

Scanned copy of this order be sent to the Ld. Counsel for applicant through email. One copy be also sent to concerned Jail Superintendent through all permissible modes including email at daksection.tihar@gov.in, for necessary information and compliance.

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

signed by RISHABH RISHABH KAPOOR KAPOOR Date:

Digitally signed by RISHABH KAPOOR Date: 2020.10.08 15:03:29 +0530

c-FIR No. 000146/20 State Vs. Simranjeet Singh PS LP. Estate

08.10.2020

(Through Video Conferencing over Cisco Webex Meeting) Case taken up in view of circular no. 992/30066-30235 DJ(HQ)/ Covid-19 Lockdown/Physical Courts Roster/2020 dt. 25.09.2020 issued by Ld. District & Sessions Judge (HQ).

Present:

Ld. APP for the State.

Sh. N.K. Saraswat, Ld. LAC for applicant.

IO/HC Mahesh Kumar.

The present application for grant of regular bail u/s 437 Cr.PC. was filed on behalf of the applicant Simranjeet Singh, through email id of this court.

Scanned copy of reply of under the signatures of IO/HC Mahesh Kumar, is received through email. Copy of same stands supplied to Ld. LAC for applicant/accused, electronically.

Heard. Record perused.

This order shall dispose off an application for grant of bail u/s 437 of Cr.P.C., moved on behalf of applicant/ accused Simranjeet Singh.

It is averred on behalf of the applicant has been falsely implicated in the present case and no recovery is left to be effected from the applicant/accused. It is further averred that applicant is undergoing judicial custody since 17.06.2020. It is further averred that case of the applicant is not covered in any of the direction given by Hon'ble HPC till date and applicant is seeking regular bail. It is with these averments, prayer has been made to admit the applicant on regular bail.

Ld. APP for State has contended that the present application is not maintainable as it is the second bail application moved on behalf of the applicant/accused, without establishing any changed circumstance after the dismissal of the earlier application. It is also contended that the applicant is a habitual offender and if he is admitted on bail, there exists a strong likelihood that he will indulge himself in the offences of similar nature. It is with these averments, the prosecution has sought dismissal of the present application.

At the very outset, it is pertinent to mention here that the present application is the second bail application moved on behalf of the applicant, seeking his enlargement on bail. It may be added here that vide orders dated 19.09.2020, the earlier bail application of the accused/applicant, was dismissed by this court. It has been averred on behalf of applicant that since the accused is undergoing judicial custody since long,

therefore, it tantamount to a changed circumstance, entitling the applicant for grant of bail. However, in this regard it is pertinent to mention here that even though there is no bar in entertaining successive bail applications, by consideration before the same court. There also lies not time-limit, set for moving the court for bail, after the first or previous bail application, is rejected. But, it should be only when some new facts and circumstances have been developed, after rejection of previous bail application, then only the successive bail application should be considered on merits. In Parvinder Singh vs. State of Punjab 2003 12 SCC 528, the Hon'ble apex court held that though an accused has right to move successive bail applications for grant of bail, but the court entertaining such subsequent application, has a duty to consider the reasons and grounds on which earlier bail applications were rejected. In such cases, the court has a duty to record what are the fresh grounds which persuade it to take a view, different from one taken in earlier application. Similarly, in State of Madhya Pradesh versus Kajad AIR 2001 SC 3517, it was held that it is true that successive bail application are permissible under the changed circumstances, but without the change in circumstances, the second bail application would be deemed, seeking review of earlier judgment, which is not permissible under the criminal law.

Now, coming to the contentions advanced on behalf of the accused/applicant, qua changed circumstances justifying maintainability of present application. As per the version of the Ld. LAC for applicant, since the accused is undergoing J/C since long, hence in view of this changed circumstance, the present bail application can well be entertained by this court. In this regard, it is pertinent to add that the authorities cited above clearly suggests that the successive bail applications are maintainable before the same court only when, circumstance which led to the dismissal of earlier application, is shown to have been changed. Mere, branding a circumstance or glossing it with a term 'changed circumstance', does not, fall under the purview of circumstance, which leads to maintainability of successive bail application unless the same has direct bearing on the grounds upon which the decision on earlier application was made. If, without establishing the said changed circumstance, the court ventures itself into entertaining the successive bail applications, it virtually tantamount to review of its own order, which certainly is not contemplated under the scheme of Cr.P.C. As far as the assertions of Ld. LAC for applicant are concerned, pertinently, the perusal of order dated 19,09,2020 is suggestive of the fact that the first bail application as moved on behalf of the applicant/accused Simranjeet Singh was dismissed by this court primarily on two counts which are, first, the previous bad antecedents of the applicant, justifying the apprehensions of the prosecution regarding the possibility of commission of offences of like nature by the accused/applicant and secondly, on the count that there existed a likelihood that if admitted on bail, the applicant will dissuade the prosecution witnesses. Pertinently, on establishing the fact by prosecution that the applicant has dented antecedents, the earlier bail application of accused/applicant was dismissed. The fact that, the applicant has previous dented criminal antecedents, remains undisputed and as such nothing Cogent has been placed on record on behalf of the accused/applicant vanishing the apprehension of the prosecution that if admitted on bail, the accused will not indulge himself in offences of similar nature or will not dissuade the material prosecution witnesses, I am of the view that the present application as moved on behalf of applicant lacks any maintainability.

In the light of my discussion made above, and also placing on reliance on the authorities cited above, since the earlier bail application of the applicant was dismissed on the ground of existence of likelihood of commission of offences of similar nature by the applicant, in case of his release and also upon appreciating possibility of his dissuading the prosecution witnesses, therefore merely on account of prolonged judicial custody of accused, the prayer of the applicant cannot be accepted. In these circumstances, the application in hand deserves dismissal and as such the present application is hereby dismissed.

The application is accordingly disposed of.

Scanned copy of this order be sent to the Ld. LAC for applicant through email. One copy be also sent to concerned Jail Superintendent through all permissible modes including email at daksection.tihar@gov.in, for necessary information and compliance.

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

RISHABH KAPOOR Digitally signed by RISHABH KAPOOR Date: 2020.10.08

15:02:15 + 0530

e-FIR No. 00057/20 State Vs. Simranjeet Singh PS I.P. Estate

08.10.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of circular no. 992/30066-30235 DJ(HQ)/ Covid-19 Lockdown/Physical Courts Roster/2020 dt. 25.09.2020 issued by Ld. District & Sessions Judge (HQ).

Present:

Ld. APP for the State.

Sh. N.K. Saraswat, Ld. LAC for applicant.

The present application for grant of regular bail u/s 437 Cr.PC. was filed on behalf of the applicant Simranjeet Singh, through email id of this court.

Scanned copy of reply of under the signatures of IO/HC Sanjay Sharma, is received through email. Copy of same stands supplied to Ld. LAC for applicant/accused, electronically.

Heard. Record perused.

This order shall dispose off an application for grant of bail u/s 437 of Cr.P.C., moved on behalf of applicant/ accused Simranjeet Singh.

It is averred on behalf of the applicant has been falsely implicated in the present case and no recovery is left to be effected from the applicant/accused. It is further averred that applicant is undergoing judicial custody since 17.06.2020. It is further averred that case of the applicant is not covered in any of the direction given by Hon'ble HPC till date and applicant is seeking regular bail. It is with these averments, prayer has been made to admit the applicant on regular bail.

Ld. APP for State has contended that the present application is not maintainable as it is the second bail application moved on behalf of the applicant/accused, without establishing any changed circumstance after the dismissal of the earlier application. It is also contended that the applicant is a habitual offender and if he is admitted on bail, there exists a strong likelihood that he will indulge himself in the offences of similar nature. It is with these averments, the prosecution has sought dismissal of the present application.

At the very outset, it is pertinent to mention here that the present application is the *second bail application* moved on behalf of the applicant, seeking his enlargement on bail. It may be added here that vide orders dated 19.09.2020, the earlier bail application of the accused/applicant, was dismissed by this court. It has been averred on behalf of applicant that since the accused is undergoing judicial custody since long, therefore, it tantamount to a changed circumstance, entitling the applicant for grant of bail.

However, in this regard it is pertinent to mention here that even though there is no bar in entertaining successive bail applications, by consideration before the same court. There also lies not time-limit, set for moving the court for bail, after the first or previous bail application, is rejected. But, it should be only when some new facts and circumstances have been developed, after rejection of previous bail application, then only the successive bail application should be considered on merits. *In Parvinder Singh vs. State of Punjab 2003*12 SCC 528, the Hon'ble apex court held that though an accused has right to move successive bail applications for grant of bail, but the court entertaining such subsequent application, has a duty to consider the reasons and grounds on which earlier bail applications were rejected. In such cases, the court has a duty to record what are the fresh grounds which persuade it to take a view, different from one taken in earlier application. Similarly, in State of Madhya Pradesh versus Kajad AIR 2001 SC 3517, it was held that it is true that successive bail application are permissible under the changed circumstances, but without the change in circumstances, the second bail application would be deemed, seeking review of earlier judgement, which is not permissible under the criminal law.

Now, coming to the contentions advanced on behalf of the accused/applicant, qua changed circumstances justifying maintainability of present application. As per the version of the Ld. LAC for applicant, since the accused is undergoing J/C since long, hence in view of this changed circumstance, the present bail application can well be entertained by this court. In this regard, it is pertinent to add that the authorities cited above clearly suggests that the successive bail applications are maintainable before the same court only when, circumstance which led to the dismissal of earlier application, is shown to have been changed. Mere, branding a circumstance or glossing it with a term 'changed circumstance', does not, fall under the purview of circumstance, which leads to maintainability of successive bail application unless the same has direct bearing on the grounds upon which the decision on earlier application was made. If, without establishing the said changed circumstance, the court ventures itself into entertaining the successive bail applications, it virtually tantamount to review of its own order, which certainly is not contemplated under the scheme of Cr.P.C. As far as the assertions of Ld. LAC for applicant are concerned, pertinently, the perusal of order dated 19.09.2020 is suggestive of the fact that the first bail application as moved on behalf of the applicant/accused Simranjeet Singh was dismissed by this court primarily on two counts which are, first, the previous bad antecedents of the applicant, justifying the apprehensions of the prosecution regarding the possibility of commission of offences of like nature by the accused/applicant and secondly, on the count that there existed a likelihood that if admitted on bail, the applicant will dissuade the prosecution witnesses. Pertinently, on establishing the fact by prosecution that the applicant has dented antecedents, the earlier bail application of accused/applicant was dismissed. The fact that, the applicant has previous dented criminal antecedents, remains undisputed and as such nothing Cogent has been placed on record on behalf of the accused/applicant vanishing the apprehension of the prosecution that if admitted on bail, the accused will not indulge himself in offences of similar nature or will not dissuade the material prosecution witnesses, I am of the view that the present application as moved on behalf of applicant lacks any maintainability.

In the light of my discussion made above, and also placing on reliance on the authorities cited above, since the earlier bail application of the applicant was dismissed on the ground of existence of likelihood of commission of offences of similar nature by the applicant, in case of his release and also upon appreciating possibility of his dissuading the prosecution witnesses, therefore merely on account of prolonged judicial custody of accused, the prayer of the applicant cannot be accepted. In these circumstances, the application in hand deserves dismissal and as such the present application is hereby dismissed.

The application is accordingly disposed of.

Scanned copy of this order be sent to the Ld. LAC for applicant through email. One copy be also sent to concerned Jail Superintendent through all permissible modes including email at daksection.tihar@gov.in, for necessary information and compliance.

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

RISHABH KAPOOR Digitally signed by RISHABH KAPOOR Date: 2020.10.08 15:01:48

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Letter no.F.4/SCJ-4/AS(UT)/2020/10717 dt. 07.10.2020

e-FIR No. 35684/19

PS Rajinder Nagar

Present: Ld. APP for the State.

The present letter no.F.4/SCJ-4/AS(UT)/2020/10717 dt. 07.10.2020 under the signature of Superintendent, Central Jail No.4, Tihar is received today.

As per the letter, accused Rahul @ Aryan could not be released from Jail as his address could not be verified. As per the report, the accused was not residing at the given address.

Report perused.

In such circumstances, the concerned Jail Superintendent is directed to provide the assistance of Ld. Jail visiting LAC to accused for furnishing the fresh personal bonds after ascertaining the correct address of the accused. Needlessly the accused shall be released upon furnishing personal bonds in the sum of Rs.10,000/to the satisfaction of concerned Jail Superintendent, after due verification of his address.

Copy of this order be sent to concerned Jail Superintendent, through email, for compliance.

Copy of this order be also sent to uploading on Delhi District Courts

Website.

Digitally signed by RĬSHABĦ

RISHABH KAPOOR KAPOOR Date:

(RISHABH KAPOOR) MM-03(Central),THC,Delhi 08.10.2020

16:32:22 +0530

2020.10.08

Letter no. F.4/SCJ-4/AS(UT)/2020/10719 dt. 07.10.2020 FIR No. 200/17 PS I.P. Estate

08.10.2020

Present: Ld. APP for the State.

The present letter no.F.4/SCJ-4/AS(UT)/2020/10719 dt. 07.10.2020 under the signature of Dy. Superintendent, Central Jail No.4, Tihar is received today.

As per the letter, accused Mohd. Ashad could not be released from Jail as his address could not be verified. As per the report, the accused was not residing at the given address.

Report perused.

In such circumstances, the concerned Jail Superintendent is directed to provide the assistance of Ld. Jail visiting LAC for furnishing the fresh personal bonds after ascertaining the correct address of the accused. Needlessly the accused shall be released upon furnishing personal bonds in the sum of Rs.10,000/- to the satisfaction of concerned Jail Superintendent, after due verification of his address.

Copy of this order be sent to concerned Jail Superintendent, through email, for compliance.

Copy of this order be also sent to uploading on Delhi District Courts

Website.

Digitally signed by RISHABH RISHABH KAPOOR

KAPOOR Date: 2020.10.08 16:32:41 +0530 (RISHABH KAPOOR) MM-03(Central),THC,Delhi

08.10.2020