

e-FIR No. 000170/20
PS Rajinder Nagar

09.10.2020

(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 Sanjay Sharma in person.

IO/PSI Deepak Kumar in person.

The present application was filed through email. Scanned copy of reply dt. 09.10.2020 under the signatures of IO/PSI Deepak Kumar is received through email. Copy of same already stands supplied to applicant, electronically.

Heard. Record perused.

This order shall dispose off application for release of ECM (Engine Control Module) Part of vehicle bearing no. DL 3CBR 2591, moved on behalf of applicant Sanjay Sharma.

In reply received under the signatures of IO/PSI Deepak Kumar, it has been stated that the ECM Part of vehicle bearing no. DL 3CBR 2591 is lying in the custody of police at PS Rajender Nagar. It is further stated in report that the aforesaid ECM part pertains to vehicle of complainant. It is further reported that the IO has no objection, if the aforesaid ECM Part released in favour of its rightful owner.

IO further submits that the applicant has produced the RC of the vehicle and on verification of same, ECM Part in question was found to be belonging to the vehicle of complainant.

On perusal of the report of IO, RC of vehicle and documents appended with the application, applicant Sanjay Sharma prima facie appears to be the registered owner of the vehicle bearing DL 3CBR 2591 from which the alleged ECM Part was stolen. Therefore, the applicant prima facie appears to be entitled for custody of ECM Part 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 ECM Part of vehicle no. DL 3CBR 2591 be released to the applicant / rightful owner subject to the following conditions:-

1. ECM Part in question be released to applicant/ rightful owner only subject to furnishing of indemnity bonds as per its valuation to the satisfaction of the concerned SHO/ IO subject to verification of documents.
2. IO shall prepare detailed panchnama mentioning the colour, Make, Serial number, Model and other necessary details of the ECM Part in question.
3. IO shall take the colour photographs of the ECM Part in question from different angles and also of the serial number and model number thereof.
4. The photographs should be attested and counter signed by the complainant/applicant and accused.
5. IO is directed to verify the identity of ECM Part in question from concerned vehicle agency by verification of its serial number, model number, make, brand etc.

Application stands disposed off.

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

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

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(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
09.10.2020

FIR No. 151/20
State Vs. Subhash Chander
PS I.P. Estate

09.10.2020

(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. Amresh Kumar, Ld. Counsel for accused/applicant.

Pursuant to order dt. 07.10.2020, scanned copy of report under the signatures of Dy. Superintendent of Central Jail No.1, Tihar, is received and perused.

As per the report, the accused is also undergoing judicial custody in connection with case FIR No. 147/20 u/s 420 IPC PS Darya Ganj, apart from the present case FIR.

At this stage, counsel for applicant submits that he wishes to withdraw the present application. Accordingly, application is dismissed as withdrawn.

Application stands disposed off.

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

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

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(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
09.10.2020

State Vs. Unknown (through applicant Rohit Malik)
FIR No. 176/20
PS I.P. Estate

09.10.2020

**(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. Chetan Kumar, Ld. Counsel for applicant.

IO absent.

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

IO/SI Sandeep Singh has also sent an application seeking exemption from appearance today. Same is allowed for today only for the reasons stated therein.

At this stage, counsel for applicant seeks some time for filing the proper authorization issued in favour of applicant, for release of vehicle in question on superdari.

Request considered and allowed.

Let the scanned copy of proper authorization issued in applicant's favour, be filed through email on 12.10.2020 by 10:00 am.

Put up for consideration on 12.10.2020 at 12:00 pm.

Copy of this order be sent to counsel for applicant for compliance.

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

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**(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
09.10.2020**

State Vs. Vikram Kakkar
FIR No. 108/19
PS I.P. Estate

09.10.2020

(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/accused with Sh. Ashok Kumar Arya, Ld. Counsel.

IO/SI Deepak Kumar in person.

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

As per the reply filed by IO, the accused has been released on police bail during course of investigation, as the offence was bailable in nature.

Counsel for accused submits that the charge-sheet has already been filed in present case and same is listed for 13.10.2020.

At request, the present application be listed with the main case file on 13.10.2020.

The applicant shall remain present before the Court on date fixed.

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

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(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
09.10.2020

FIR No.193/20
State Vs. Pradeep Kumar
PS I.P. Estate

09.10.2020

(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. Rajpal Singh, Ld. Counsel for applicant/accused

IO/SI Narender Beniwal in person

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

Scanned copy of reply of under the signatures of IO/SI Narender Beniwal, is received through email id of the court. Copy of same is already supplied to counsel of applicant/accused, through email.

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

It is stated that the applicant is innocent and has been falsely implicated in the present case. It is further averred that the custodial interrogation of the applicant/accused is no more required, nor any recovery is left to be effected from him. It is further averred that applicant is sole bread earner of his family and is having responsibility to maintain his family. With these averments prayer is made for enlarging applicant on bail.

Ld. counsel for applicant submits that the the first bail application moved on behalf of applicant/accused was dismissed as withdrawn on 01.10.2020.

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

Upon inquiry made by Court, IO/SI Narender Beniwal submits that applicant is the first time offender and is having no other previous involvements except the present case.

In the present case, the applicant was arrested for the offences u/s 379/411 IPC. As per reply filed by IO/SI Narender Beniwal, the recovery of the

case property has already been effected from the applicant/accused, in the present case. It is also not disputed that applicant/accused is the first time offender having no previous criminal antecedents. As the recovery of the case property has already been effected from the accused, coupled with the fact that the accused has never been involved in any of the offences, and as such is having clean previous antecedents, therefore, there does not exist any apprehension that if enlarged on bail, he will commit offences of like nature or will dissuade the prosecution witnesses. Further, 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. Even otherwise also, the presence of the accused during the course of remaining investigation, if any, as well as during trial can be ensured by taking sufficient sureties undertaking to ensure his presence. If so, in the circumstances, I am of the view that there exists 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) 1SCC 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 Pradeep Kumar 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 make himself available as and when required to do so by the investigating agency or the police;
3. 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;
4. 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;
5. That the applicant shall not deliberately and intentionally act in a manner which may tend to delay the investigation and trial of the case.
6. 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 of.

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.

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(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
09.10.2020

FIR No.199/20
PS I.P. Estate

09.10.2020

(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. Rishabh Gulati, Ld. Counsel for applicant.

The present application seeking rectification in the order dt. 07.10.2020 passed by this Court, was filed through email.

Heard. Record perused.

Counsel for applicant submits that vide order dt. 07.10.2020 passed by this Court, the superdari application moved on behalf of applicant was allowed and vehicle bearing no. DL 1PD 2765, was ordered to be released on superdari. However, in such order, inadvertently the name of AR of applicant was mentioned as Kamal Singh Dahiya instead of Pawan Singh Dahiya.

Order dt. 07.10.2020 passed by this Court, is also perused.

The perusal of same would reveal that an inadvertent typographical error has crept in while mentioning the name of AR of applicant in the paragraph no.3 of said order. Since, such error appears to be typographical in nature, therefore, same stands corrected and the name of AR of applicant in order dt. 07.10.2020 be read as Pawan Singh Dahiya instead of Kamal Singh Dahiya. Needlessly, all other conditions mentioned in order dt. 07.10.2020 shall remain same.

Application is accordingly, disposed off.

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

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

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(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
09.10.2020