

State vs. Kailash Chander

FIR No. 0109/20

PS: Mundka

U/sec. 33/38/58 Excise Act

District Courts' Functioning has been restricted till June 30 amid Lockdown by the Hon'ble High Court of Delhi.

27.06.2020

Present: Learned APP for the State

Shri Ashok Singh, learned counsel for the accused/applicant *Kailash Chander*

IO/ASI Narveer, PS *Mundka*

The court is convened through V/C (Cisco Webex)

This bail application is received from the office of learned CMM through e-mail.

Since bail has already been granted to the applicant/accused *Kailash Chander* vide order dated 27 June 2020, the present application stands dismissed as infructuous.

(Babita Puniya)

MM-0001 District

Tis Hazari Courts, Delhi, 27.06.2020

Mrs. BABITA PUNIYA
महानगर दण्डाधिकारी न्यायालय-01
(From residence office)

जिला परिषद, कमरा नं. 355 तृतीया मंजूर

We: District, Room No. 355

तीस हजारी न्यायालय

Tis Hazari

State vs. Kailash Chander

FIR No. 0109/20

PS: Mundka

U/sec. 33/38/58 Excise Act

26.06.2020

District Courts' Functioning has been restricted till June 30 amid Lockdown by the Hon'ble High Court of Delhi.

Fresh bail application received through e-mail.

Perused.

Let notice of this application be issued to the IO and the learned APP for the State.

List the application on 27 June 2020 at 12 noon through V/C (Cisco Webex).

(Babita Puniya)

MM-06, West District

Delhi Hazari Courts, Delhi 27.06.2020

State vs. Kailash Chander

FIR No. 0109/20
PS: Mundka
U/sec. 33/38/58 Excise Act
In J/C since 25 June 2020

District Courts' Functioning has been restricted till June 30 amid Lockdown by the Hon'ble High Court of Delhi.

27.06.2020

Present: Learned APP for the State

Shri Ashok Singh, learned counsel for the accused/applicant *Kailash Chander*

IO/ASI *Narveer*, PS *Mundka*

The court is convened through V/C (Cisco Webex)

Vide this order I shall decide the bail application filed on behalf of the accused *Kailash Chander* under section 437 Cr.P.C.

The bail application was received through e-mail.

Reply also filed by the IO through WhatsApp/e-mail.

It is stated by the learned counsel for the accused that he is the registered owner of the vehicle which was allegedly found loaded with illicit liquor. He further submitted that he had sold the vehicle long back to one person namely *Mukesh*, who has expired and now his son namely *Jonny* has been using this vehicle. He further stated that he has disclosed all these facts to the IO and is ready and willing to co-operate in the investigation.

He further submitted that the accused cannot be punished before conclusion of trial and if he is kept behind the bars, not only he but his family would also suffer during this COVID-19 pandemic.

बबीता पूनिया
Ms. BABITA PUNIYA
महानगर दण्डाधिकारी न्यायालय-06
Metropolitam Magist: 19-06
जिला पश्चिम, कमरा नं. 35
West District, Room No. 35
तीस हजारी न्यायालय
Tis Hazari Court: 2020

* Reliance is placed on the judgment passed by Hon'ble Supreme Court of India in the case of *Sanjay Chandra Vs. Central Bureau of Investigation (2012)1 SCC 40* to contend that every man is deemed to be innocent until duly tried or duly found guilty and that refusal of bail is restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution of India.

Per contra, bail application is strongly opposed by the Ld. APP for State. He submitted that the accused does not deserve the concession of bail as huge quantity of illicit liquor has been recovered from his car. He further submitted that accused has not produced any document in support of his claim that he has sold the vehicle. He, therefore, prayed that bail application may be dismissed.

On court query, it is fairly stated by the IO that custodial interrogation of the accused is not required.

I have heard the arguments and have also perused the bail application and the reply filed by the IO.

Admittedly accused is the registered owner of the vehicle in question and is running in J/C since 25 June 2020. Further, police have not claimed custodial interrogation.

The basic rule is bail, not jail. Therefore, without commenting on the merits of the case, keeping in view the overall conspectus of the case, I deem it fit to admit the accused *Kailash Chander* on bail on his furnishing a bail bond in the sum of Rs. 50,000/- with one surety in the like amount on the conditions:-

1. That the surety shall be local surety;
2. That the accused shall co-operate in the investigation; and
3. That the accused shall not commit an offence similar to the offence of which he is accused or suspected of the commission of which he is suspect; and
4. That he shall not take undue advantage of liberty or misuse the liberty; and



बबिता पुनिया
Ms. BABITA PUNIA
जिला मजिस्ट्रेट (अवर) -
Mistress Magistrate
जिला पुलिस, जयपुर - 302 001
Jyoti Datta Road, Jyoti Datta
जयपुर - 302 001


5. That he shall not change his residence without prior permission of this Court;
and

6. After filing of charge sheet in the court, the accused shall remain present before the court on each and every date fixed for hearing of the case. If he wants to remain absent, then he shall take prior permission of the court and in case of unavoidable circumstances for remaining absent, he shall immediately give intimation to the court and request that he may be permitted to be represented through counsel and he will not dispute the identity of the accused in the case.

It is made clear that if the accused/applicant commits breach of any of the above conditions, the bail granted to him shall be liable to be cancelled.

Any observation made herein shall have no bearing on the merits of the case.

Bail application stands disposed of.


(Babita Puniya)
MM-06, West District