

BAIL APPLICATION NO.718/2020

**State v. Himanshu Chahal
FIR No.: 193/2020
PS: Prashad Nagar
U/s:307,34 IPC**

27.10.2020

This court is holding physically today as per directions.

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

An application for modification/clarification filed by Ld. Addl.
PP.

Issue notice of the same to the accused/applicant and counsel
for applicant through electronic mode.

Put up for reply, if any, arguments and appropriate orders on
11.11.2020.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

Bail Application

Bail Application No.: 1590/2020
State Vs. Pankaj Goyal @ Pankaj Kumar Goyal
FIR No. : 263/2020
PS: Prasad Nagar
U/S: 364A/34 IPC

27.10.2020

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

Arguments already heard and today the case is fixed for order.

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

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

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

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

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

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

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

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

evidence and elaborate documentation of merits of case should not be done.

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

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refusing bail u/s 439 of the CrPC.

In the present case, it is argued that he is in J.C. since 08/10/2020; that he is no more required for the purpose of investigation; that present case is falsely planted upon him; there is no criminal background of the present accused; that he has deep roots in society; further it is argued that there was civil dispute regarding some money that too not between present accused and complainant but one Nitin Kansal. That present accused was in Delhi and not even present at the place of alleged offence in UP, Meerut; that he has received certain articles as he knew Nitin Kansal but same was bonafidely only. Further, it is argued that the manner in which story is told by the prosecution is unbelievable as no kidnapper will keep the victim in his own house and allow him to call time and again to his family member. 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 even though there may be some money dispute between the parties but fact remains that because of that Nitin Kansal committed the offence in question and in conspiracy of the same present accused actively participated and received ransom jewelry and cheque book from the family members of the victim; that investigation is at initial stage; that present accused is very well known to the main accused Nitin Kansal. As such, present bail application is strongly opposed.

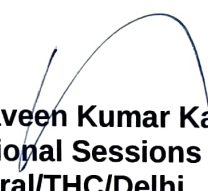
I find force in the arguments of learned Addl.PP for the state. The offence is serious in nature and is nuisance to public at large. There are specific and serious allegations against the accused. Although, he may not be present at the place where victim was kept after kidnapping at Meerut UP but as per investigation he actively participated in the present offence by receiving the ransom valuable articles / jewelry. Further, such

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offence is punishable upto death or imprisonment for life. Thus, therefore, having regard to the nature of offence, allegations against the present accused. As such, this court is not inclined to grant the relief as sought in the present application. Hence, the same is dismissed. Trial Court record be sent back.

The bail application is accordingly disposed off as dismissed. Learned counsel for applicant is at liberty to obtain order through electronic mode. Further copy of this order be sent to concerned Jail Superintend, IO / SHO. Copy of order be uploaded on website.

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


(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi
27/10/2020

Bail Application No.: 1590/2020
State Vs. Pankaj Goyal @ Pankaj Kumar Goyal
FIR No. : 263/2020
PS: Prasad Nagar
U/S: 364A/34 IPC

: 1 :

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

Bail Application No.: 1600/2020
State Vs Sanjay Mahesh Bajrange @Gattu
s/o Mahesh Bajrange
FIR No. 246/2020
P. S. Sarai Rohilla
U/s: 395, 379, 420, 411, 482, 120B, 34 IPC

27/10/2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State.
Mr. Sidharth, learned counsel for accused through
VC.
IO also present through VC.

Vide this order, bail application dated 23/10/2020 u/s 439
Cr.PC filed by applicant through counsel is disposed off.

It is stated in the application as also argued by learned
counsel for the applicant that the contents of the FIR are vague and
based on false and frivolous allegations and no such offence as
alleged is made against the applicant; that he in JC since 21/07/2020;
that there is no material on record regarding the alleged offences
against the present accused; that he is no more required for the
purpose of investigation and even time to seek PC is already over;
whole of the case property / money is already recovered; nothing is
recovered or to be recovered from the present accused; that there is
no previous criminal record of the accused as per the reply filed by the
prosecution itself. It is further stated that he cannot be identified in the

Bail Application No.: 1600/2020
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: 2 :

CCTV footage. That co-accused Nakul Raju already granted bail vide order dated 06/10/2020 by this court. As such, it is prayed that he be granted regular bail.

On the other hand, in reply dated 26/10/2020 filed by the IO, as also argued by learned Addl.PP for the State it is stated that a case of theft from Dickey of the scooter of the complainant side by unknown person was reported by one Manish Verma. That an information was received from other State regarding involvement of the present accused who is part of Diggi Baaz Gang; that co-accused Sanjay made some disclosure statement and confesses his involvement as well as involvement of other accused including the present accused; that whole of stolen amount of Rs. 25 Lacs is already recovered from co-accused Sanjay and Ajay. It is further claimed that ingredients of section 395 IPC are also made out, as in total there are six accused in the present case.

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

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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

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that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial, but in such case 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the constitution that any persons should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty under Article 21 of the Constitution upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439 CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of

Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830 relied).

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

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

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

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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, on bare reading of chargesheet there are some doubt that offence u/s 395 IPC is made out at all. One of the essential ingredients of punishment u/s 395 IPC is that five or more persons must be present and aiding on the spot. Whereas as per the case of the prosecution at best there are four persons in this case. Further, on bare reading of the original FIR and investigation thereafter there is doubt regarding whether ingredients of section 390 IPC are satisfied but detail of the same is matter of trial. It is a matter of record that accused is in JC since 21/07/2020. Further, as far as present accused is concerned, nothing remains to be recovered at his instance. In fact, case property / whole of money already recovered. In any case the period for seeking police remand is already over. Infact chargesheet is already filed. 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 or even involvement in criminal cases record is placed on record by the IO.

In above facts and circumstances, such accused is granted

bail subject to furnishing of **personal bond in the sum of Rs. 20,000/- with two sound surety 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.*

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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*

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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. Further copy of this order be sent to concerned Jail Superintend, IO / SHO. Copy of order be uploaded on website.

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

(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi)
27.10.2020

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

Bail Application No.: 1599/2020
State Vs Ajay Birju Garange
s/o Birju Dhan Singh Garange
FIR No. 246/2020
P. S. Sarai Rohilla
U/s: 395, 379, 420, 411, 482, 120B, 34 IPC

27/10/2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State.
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I have heard both the sides.

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P. S. Sarai Rohilla

U/s: 395, 379, 420, 411, 482, 120B, 34 IPC

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

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Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830 relied).

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

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

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

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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

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: 7 :

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-

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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, on bare reading of chargesheet there are some doubt that offence u/s 395 IPC is made out at all. One of the essential ingredients of punishment u/s 395 IPC is that five or more persons must be present and aiding on the spot. Whereas as per the case of the prosecution at best there are four persons in this case. Further, on bare reading of the original FIR and investigation thereafter there is doubt regarding whether ingredients of section 390 IPC are satisfied but detail of the same is matter of trial. It is a matter of record that accused is in JC since 13/08/2020. Further, as far as present accused is concerned, nothing remains to be recovered at his instance. In fact, case property / whole of money already recovered. In any case the period for seeking police remand is already over. Infact chargesheet is already filed. 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 or even involvement in criminal cases record is placed on record by the IO.

In above facts and circumstances, such accused is granted

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bail subject to furnishing of **personal bond in the sum of Rs. 20,000/- with two sound surety 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*

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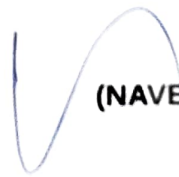
are satisfied;

- 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. Further copy of this order be sent to concerned Jail Superintend, IO / SHO. Copy of order be uploaded on website.

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



(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi)
27.10.2020

BAIL APPLICATION NO.1452/2020

**State v. Karan
FIR No.: 301/2020
PS: Karol Bagh
U/s:376,506 IPC**

27.10.2020

This court is holding physically today as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Sh. Puja Kumar Singh, Ld. Counsel for applicant.
Sh. S.C. Sharma, Ld. Counsel for complainant/victim with
victim in person alongwith her mother.
SI Baljinder Singh on behalf of IO ASI bimla in person.

Further arguments in detail heard.

Chargesheet not received.

Issue fresh notice to the Ahlmad of Ld. MM concerned to
summon case file/chargesheet.

It is stated that ASI Bimla is on medical leave and it is not clear
at present as and when she will join back her duty. Issue notice to IO also
to appear in person on next date, if she joins her duties by next date of
hearing.

Put up on 03.11.2020.


**(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020**

Bail Matter No.: 1451/2020
FIR No: 165/2020
PS: Rajinder Nagar
State Vs Ashok

27.10.2020

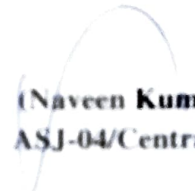
Today this court is holding physically hearing as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Mr. Vijay Kumar Sharma, learned counsel for applicant through VC.
Mr. Suminder Paswan, learned counsel for complainant with complainant in person.
SI Soni Lal on behalf of main IO.

It is stated that supplementary chargesheet is yet to be filed but main file has been filed.

Part arguments heard from the complainant side.

At request of counsel for accused, put up for further arguments for **10/11/2020**


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

Bail Matter No.: 517, 539, 540 & 541 /2020
FIR No: 84/2019
PS: I.P. Estate
State Vs V.K.Jain, Fazar Mohd.,
Sukha @ Imran Khan and Ajit @ Aziz

27.10.2020

Today this court is holding physically hearing as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Mr. Puneet Kumar Jain, learned counsel for applicant / original complainant in
the present FIR Mr. V.K. Jain.
None for non applicant.

Further arguments heard from the counsel for the applicant / complainant. Last
and final opportunity is granted to non applicant / accused to address arguments, if any, on
this application for cancellation of bail.

Put up for **10/11/2020** through VC.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

Bail Matter No.: 517, 539, 540 & 541 /2020
FIR No: 84/2019
PS: I.P. Estate
State Vs V.K.,Jain, Fazar Mohd.,
Sukha @ Imran Khan and Ajit @ Aziz

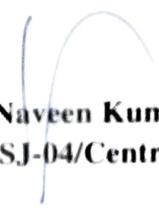
27.10.2020

Today this court is holding physically hearing as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Mr. Puneet Kumar Jain, learned counsel for applicant / original complainant in
the present FIR Mr. V.K. Jain.
None for non applicant.

Further arguments heard from the counsel for the applicant / complainant. Last
and final opportunity is granted to non applicant / accused to address arguments, if any, on
this application for cancellation of bail.

Put up for **10/11/2020** through VC.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

Bail Matter No.: 1612/2020
FIR No: 147/2020
PS: Prasad Nagar
State Vs Surender Ahirwal
U/s 307 IPC

27.10.2020

Today this court is holding physically hearing as per directions.
Present: Mr. Pawan Kumar, learned Addl.PP for State.
Ms. Sandhiya, learned counsel for the applicant through VC.
IO Rinku Singh also present through VC.

This is an application for regular bail.

Arguments on this application for regular bail from the applicant side heard.
Inter-alia, it is argued that accidentally the child slipped and expired. Further the grounds are also raised in this bail application dated 26/10/2020.

On the other hand, reply filed by the IO through SHO concerned, in which it is stated that there are witnesses who are saying that such child was thrown out in anger by the present applicant on some domestic dispute from the window of second floor. As such, he was well aware that such child was 6 months old and died.

Arguments heard from both sides.

Having regard to the nature of incriminating evidence, the conduct of the accused, the seriousness of the offence and specific allegations against him. This court is not inclined to grant him bail.

With these observations present bail application is disposed of as dismissed.

Learned counsel for the applicant / accused is at liberty to collect the order through

Contd...../-

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*Bail Matter No. 1612/2020
FIR No: 147/2020
PS. Prasad Nagar
State Vs Surrender Ahirwal
U/s 307 IPC*

electronic mode. Further copy of this order be sent to Jail Superintendent concerned, IO and SHO. Copy of order be uploaded on the website.

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

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

Bail Matter No.: 1534/2020
FIR No: 244/2020
PS: Kamla market
State Vs Gurdev Singh @ Vicky

27.10.2020

Today this court is holding physically hearing as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Mr. Ashwani Jha, learned counsel for the applicant.
IO Inspector Lekh Raj in person.

It is stated by the IO that now this matter has already been converted into 302, 34 IPC as the victim has expired.

Further part arguments in detail heard particularly regarding presence of present applicant on the place of incident. Some more time is sought by the IO to verify in this regard.

As such, put up for further arguments / appropriate orders for **06/11/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

BAIL APPLICATION NO.: 1083/2020

**State v. Kamal Bhandari
FIR No.: 287/2020
PS: Sarai Rohilla
U/s:498A,406,34 IPC**

27.10.2020

This court is holding physically today as per directions.

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

Today is the physical hearing day of the court.

**As such, put up for hearing of this bail application
through VC on 09.11.2020.**

Interim order to continue in terms of previous order.

**(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020**

BAIL APPLICATION NO.: 1084/2020

State v. Namita Dilawari

FIR No.: 287/2020

PS: Sarai Rohilla

U/s:498A,406,34 IPC

27.10.2020

This court is holding physically today as per directions.

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

Today is the physical hearing day of the court.

**As such, put up for hearing of this bail application
through VC on 09.11.2020.**

Interim order to continue in terms of previous order.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

BAIL APPLICATION NO.: 1086/2020

**State v. Ashok kumar
FIR No.: 287/2020
PS: Sarai Rohilla
U/s:498A,406,34 IPC**

27.10.2020

This court is holding physically today as per directions.

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

Today is the physical hearing day of the court.

**As such, put up for hearing of this bail application
through VC on 09.11.2020.**

Interim order to continue in terms of previous order.

**(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020**

BAIL APPLICATION NO.: 1085/2020

State v. Hemant Kumar

FIR No.: 287/2020

PS: Sarai Rohilla

U/s:498A,406,34 IPC

27.10.2020

This court is holding physically today as per directions.

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

Today is the physical hearing day of the court.

**As such, put up for hearing of this bail application
through VC on 09.11.2020.**

Interim order to continue in terms of previous order.

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

BAIL APPLICATION NO.: 1087/2020

**State v. Hitesh
FIR No.: 287/2020
PS: Sarai Rohilla
U/s:498A,406,34 IPC**

27.10.2020

This court is holding physically today as per directions.

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

Today is the physical hearing day of the court.

**As such, put up for hearing of this bail application
through VC on 09.11.2020.**

Interim order to continue in terms of previous order.

**(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020**

BAIL APPLICATION NO.: 1089/2020

**State v. Nirmal Aroa
FIR No.: 287/2020
PS: Sarai Rohilla
U/s:498A,406,34 IPC**

27.10.2020

This court is holding physically today as per directions.

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

Today is the physical hearing day of the court.

**As such, put up for hearing of this bail application
through VC on 09.11.2020.**

Interim order to continue in terms of previous order.

**(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020**



BAIL BOND

State v. Parmod
FIR No.: 485/2014
PS: Timarpur
U/s:307,308,323,341,34 IPC

27.10.2020

This court is holding physically today as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Both sureties in person with counsel Sh. Shaurabh Singh.

Bail bonds filed for accused Pramod Kumar by Sureties Amit Chaudhary and Narender.

In view of order dated 23.10.2020 of Hon'ble High Court, put up for verification of address of sureties as well as their security by IO/SHO concerned for **29.10.2020**.

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

BAIL BOND

**State v. Vasudev Prasad
FIR No.: 130/2014
PS: Kamla Market
U/s: 419,420,365,392,395,412,120B, 34 IPC**

27.10.2020

This court is holding physically today as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Surety Ms. Rajni Devi in person with counsel Sh. Tushar.

Bail bond filed.

In view of order dated 19.09.2020, put up for verification of address of surety as well as her security by IO/SHO concerned for **29.10.2020 at 2 pm.**

**(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020**

SC:725/2017
FIR No: 58/2017
PS: Karol Bagh
State v. Sakawat &Anr.

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

In the present case, last regular date of hearing was 28.08.2020.

On 28.08.2020, matter was adjourned for 27.10.2020.

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

This court is holding physically today as per directions.


This court is also discharging Bail Roster duty.

Present: Mr. 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 15.03.2021.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

CA: 360/2018
VCI Hospitality Ltd. And Anr. v. ITO

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: None for Appellant.

Even on the last date of hearing, nobody was appeared on behalf of Appellant.

Issue B/w against the appellant in the sum of Rs. 5000/- with notice to his surety for next date.

Put up for final arguments in terms of previous order for 23.11.2020.

Ahlmad is directed to issue B/w within three days.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

CA: 361/2018
VCI Hospitality Ltd. And Anr. v. ITO

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: None for Appellant.

Even on the last date of hearing, nobody was appeared on behalf of Appellant.

Issue B/w against the appellant in the sum of Rs. 5000/- with notice to his surety for next date.

Put up for final arguments in terms of previous order for 23.11.2020.

Ahlmad is directed to issue B/w within three days.

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020



CR No.: 235/2020
Ramesh Bhateja Vs Neeraj Krishmani & Ors

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

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

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

Present: Mr. Rajeev Kapoor, learned counsel for the revisionist alongwith revisionist Ramesh Bhateja in person.

Arguments heard.

Issue notice of this revision to the respondents No. 1 to 4 through electronic mode for the next date of hearing. Steps be taken within 3 days.

Put up for 20/11/2020.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

CR No.: 427/2019
Mamta Devi Vs State

27.10.2020

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.

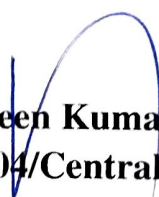
In the present case, last regular date of hearing 22/04/2020 & 15/06/2020. Thereafter, as per directions from Hon'ble High Court, matter was adjourned was far due to lock-down. But in view of latest directions, matter is taken up today for hearing through VC.

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

Present: None.

Let previous order dated 06/03/2020 be complied afresh.

Put up for **15/03/2021**.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

Crl. Rev. : 205/2019
Mohan Lal Kalra and Anr. v. Bharat Lal & Ors.

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

In the present case, last regular date of hearing was 24.03.2020,21.07.2020.

On 21.07.2020, matter was adjourned for 27.10.2020.

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

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Both revisionists in person.
Sh. Puneet Kadiyan, Ld. Counsel for Respondent no.1 Bharat Lal in person.
Sh. Vivek Sharma, Ld. Counsel for respondent no. 2 to 4.

Further, arguments heard from learned counsel for Respondent no.1 as well as Respondent no.2 to 4.

Put up for orders/clarifications, if any for 24.11.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020



CA No. 06/2019
Pradeep Kumar Jain Vs Registrar of Companies

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

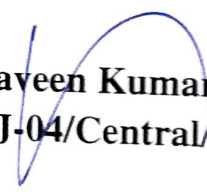
In view of the above-mentioned orders/directions, file is taken up through Webex.

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

Present: Proxy counsel for the appellant.

Arguments already heard in this matter.

Put up for orders / clarification, if any, for **21/11/2020** through VC.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

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

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
None for accused as NBW not served.

Issue fresh NBW against the accused through SHO concerned.
SHO concerned to appear in person with report on such NBW on next date of hearing.

Put up on 07.11.2020 for report on NBW and final judgment.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

CA No.: 439/2019
Nikhil Kapoor & Anr vs Shubhi Gupta

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

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

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

Present: Appellant in person with counsel Mr. S.S. Sopti.

Mr. Luv Manan, learned counsel for respondent through VC.

Further arguments / clarification given.

Put up for orders for **07/11/2020**. Certain case law also filed. Same be also taken on record.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

CA:160/2020

Dharmender @ Ishan v. The Statement

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Mr. Chetan, proxy counsel for Appellant.

It is stated that main counsel as well as convict/Appellant is in hospital.

As per record of the trial court, vide order dated 10.09.2020, his sentence was suspended by learned trial court till 10.10.2020 only.

Thereafter, no application moved for extension of the same before learned trial court or before this court. Under these circumstances, a copy of this order be sent to learned trial court for his information and appropriate action.

Heard.

Issue notice of this appeal as well as application for suspension of sentence to the State for 17.11.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

CA: 241/2019

Ram Naresh Roy v. The Bharat Cooperative T/C society ltd.

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Appellant in person with counsel Sh. Subodh Kumar.
Sh. B.K. Mishra, Ld. Counsel for Respondent with
AR of respondent in person.

Part further arguments heard.

Put up for further arguments on merit as well as on the aspect of section 148 NI Act for 20.11.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

CA No.: 452/2019
Mukesh Sharma Vs Pramod Sharma

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

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

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

Present: Mr. Rajeev Raheja, learned counsel for appellant in person.

Learned counsel for respondent through VC.

Part arguments heard.

Put up for further arguments for **07/11/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

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

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

Present: Proxy counsel for revisionist through VC.

Learned counsel for Respondent no. 2 to 6 through VC.

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

At the request of proxy counsel for revisionist, put up for further final arguments for **28/11/2020 at 12:30 PM.**


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

SC:27481/2016
FIR No: 386/2014
PS: Paharganj
State v. Pawan Sharma

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

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

No adverse order is passed in the interest of justice.

**Put up for further final arguments through VC on
11.11.2020.**

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

In the present case, last regular date of hearing was 24.03.2020 and 17.07.2020.

On 17.07.2020, matter was adjourned for 27.10.2020.

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

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Sh. S.N. Shukla, Ld. LAC for accused/convict in person.
Sh. Pawank Kumar, Ld. Addl. PP for the respondent/state.

Part final arguments in detail heard including regarding previous conviction.

Put up for further arguments and appropriate orders through VC for 10.11.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

CR No.: 237/2020
Baljit Singh Vs State

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

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

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

Received by way of assignment. It be checked and registered separately.

Present: Mr. A.S. Chaudhary, learned counsel for the petitioner.

Issue notice of this revision petition to respondents / state.

Further, let trial court record be summoned from the court concerned.

In the meanwhile, operation of impugned order in question is stayed till next date of hearing. Put up for **25/11/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

CA: 149/2020
Space services India Pvt. Ltd. v. State and Anr.

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

In the present case, last regular date of hearing was 28.09.2020.

On 28.09.2020, matter was adjourned for 27.10.2020.

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

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Convict no.2/Appellant no.2 Krishan Lal Gulati in person and also representing convict no.1/Appellant no.1 M/s Space Services India Pvt. Ltd. With counsel Sh. Dinesh Priyani. Mr. Pawan Kumar, learned Addl.PP for State/respondent no.1. Sh. Krishan Kumar, Office Superintendent is also present for respondent no.2/ITO.

It is stated by counsel for appellant that there are certain proceedings relating to compounding the matter, initiated by the present convict and which are pending in the department.

As such, put up for further proceedings/settlement, if any/arguments on merit on this appeal on 20.11.2020.

ITO is at liberty to file reply, if any. Reply, if filed, advance copy of the same be supplied to the appellant side.

Let interim order to continue.

A copy of this order be given dasti.

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

CA: 150/2020

Space services India Pvt. Ltd. v. State and Anr.

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

In the present case, last regular date of hearing was 28.09.2020.

On 28.09.2020, matter was adjourned for 27.10.2020.

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

This court is holding physically today as per directions.

This court is also discharging Bail Roster duty.

Present: Convict no.2/Appellant no.2 Krishan Lal Gulati in person and also representing convict no.1/Appellant no.1 M/s Space Services India Pvt. Ltd. With counsel Sh. Dinesh Priyani. Mr. Pawan Kumar, learned Addl.PP for State/respondent no.1. Sh. Krishan Kumar, Office Superintendent is also present for respondent no.2/ITO.

It is stated by counsel for appellant that there are certain proceedings relating to compounding the matter, initiated by the present convict and which are pending in the department.

As such, put up for further proceedings/settlement, if any/arguments on merit on this appeal on 20.11.2020.

ITO is at liberty to file reply, if any. Reply, if filed, advance copy of the same be supplied to the appellant side.

Let interim order to continue.

A copy of this order be given dasti.

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

CR No.: 678/2019
Gurvinder Singh Vs The State & Ors.

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

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

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

Present: Petitioner in person with counsel Mr. Harsh Gupta.

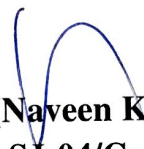
Mr. Pawan Kumar, learned Addl.PP for State.

Mr. Rishab Jain, learned counsel for respondent No.2 Asha Rani.

It is stated that written synopsis have already been filed by respondent no.2.

Copy of the same be supplied to the revisionist side during the course of the day.

Put up for further arguments, if any, from revisionist for which last opportunity is given for **07/11/2020 at 2:00 PM.**


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

CR No.: 668/2019

Gurpreet Singh & Other Vs The State & Ors.

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

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

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

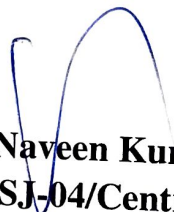
Present: Both the petitioners in person with counsel Mr. Harsh Gupta.

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

Mr. Rishab Jain, learned counsel for respondent No.2 Asha Rani.

It is stated that written synopsis have already been filed by respondent no.2. Copy of the same be supplied to the revisionist side during the course of the day.

Put up for further arguments, if any, from revisionist for which last opportunity is given for **07/11/2020 at 2:00 PM.**


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

State v Imran Akhtar Khan & Or
(Application of Yogesh Sethi)
FIR No:227/2020
PS: Wazirabad

27.10.2020

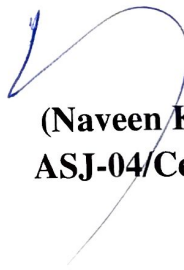
This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.

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

This is an application for interim bail.

Reply filed by IO. As per such reply, medical documents are verified and found to be correct.

Put up for orders / clarification, if any, for **28/10/2020**.



(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

SC No.: 28296/2016
FIR No.: 292/2014
PS Rajinder Nagar
State vs Pooja & others

27.10.2020

File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.

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

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

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

Mr. Diwakar Chaudhary, learned counsel for accused Pooja and Suraj.

Ms. Preeti Srivastav, learned counsel for accused Moni @ Munni alongwith such accused on bail.

Mr. Anang Pal, learned counsel for accused Mohit Sharma alongwith such accused in person on bail.

Part final arguments heard.

Put up for further final arguments on **07/11/2020 at 12:00 Noon.**


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

SC No.: 28296/2016
(Bail application of accused Munni @Moni)
FIR No.: 292/2014
PS Rajinder Nagar
State vs Pooja & others

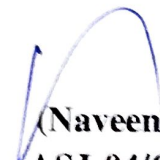
27.10.2020

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.
Ms. Preeti Srivastav, learned counsel for applicant / accused.

Part arguments on this bail application heard.

Put up for further arguments on this application for 10/11/2020.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

SC No.: 27237/2016
State v Sunil & others
(Application of Chander Pal)
FIR No: 415/2015
PS: Kotwali

27.10.2020

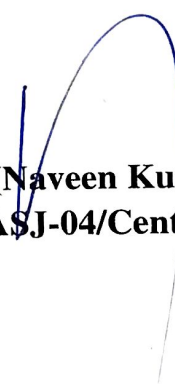
This court is also discharging Bail Roster duty. Today this court is holding physically hearing as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Applicant Chander Pal in person with counsel Mr. Ravinder Aggarwal.

Reply filed by SI Daya Nand wherein it is stated that currency which are part of Jamatalashi are already released to such applicant. On the other hand, it is stated by such applicant that such notes were forcefully given to him under protest. In any case, it is stated that such notes are old currency notes and not current once.

Put up for further consideration / appropriate order including regarding the steps taken by SHO concerned as per law and the directions by RBI, DCP and other concerned authorities regarding such old currency notes which are lying in Maalkhana.

As such, issue notice to SHO to file further reply in this regard for **17/11/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

State v Bablu Mathur
(Application for release of RC)
FIR No: 221/2015
PS: Karol Bagh

27.10.2020

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 the applicant.

Put up for consideration and appropriate orders for **12/11/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

State v Gaurav @ Kishan
(Application of Gaurav & Kishan)
FIR No: 13/2017
PS: Karan Bagh

27.10.2020

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 the applicant.

Put up for **20/11/2020** with the case file.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

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

State v. Anup Kumar @ Chipra
FIR No. : 513/2016
P. S. : Burari
U/s: 392,397,323, 411 IPC

27.10.2020.

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. Neeraj Kumar, Ld. Counsel for accused/applicant.

Vide this order, regular bail application u/s 439 Cr.PC dated 20.08.2020 filed by applicant through counsel is disposed of.

It is stated in the application that earlier a bail application was dismissed on 26.07.2017, 02.02.2018 and 10.10.2018. That thereafter further evidence was recorded. It is now stated that he is on interim bail and his conduct is satisfactory during such interim bail and he never misused the same. That he is the sole bread earner of the family. That only IO are to be examined and all the other material witnesses are already examined. That there are certain directions from Hon'ble High Court for expediting the recording of evidence of remaining witnesses. But due to lock-down and other reasons, further evidence could not be recorded so far. It is further argued that the story of the victim is even otherwise is not probable and there was a some dispute between the victim and accused side and as a result accused was implicated in the present case. As such, it is prayed that he be granted regular bail.

On the other hand, it is stated by the State that for the purpose of bail, evidence cannot be appreciated in detail. It is further stated that there are sufficient evidence against the accused. That offence is serious

in nature. As such, present bail application is opposed.

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

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

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

earlier times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial, but in such case 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the constitution that any persons should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty under Article 21 of the Constitution upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439 CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

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

disapproves, the legal consequences are bound to follow.

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

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

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for grant or refusal of bail to an accused in a non-bailable offence like, (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) Nature of accusation and evidence therefor, (iii) Gravity of the offence and punishment which the conviction will entail, (iv) Reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, (v) Character and behavior of the accused, (vi) Means, position and standing of the accused in the Society, (vii) Likelihood of the offence being repeated, (viii) Reasonable apprehension of the witnesses being tampered with, (ix) Danger, of course, of justice being thwarted by grant of bail, (x)

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

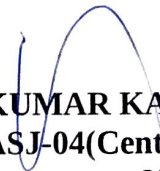
Further it may also be noted that it is also settled law that while disposing of bail applications u/s 437/439 Cr.P.C., courts should assign reasons while allowing or refusing an application for bail. But detailed reasons touching the merit of the matter should not be given which may prejudice the accused.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

In the present case, at present all the material witnesses and public witnesses are examined. As such, threat /influencing the witnesses do not exist any more. Only IOs are to be examined. In fact there are certain directions from Hon'ble High Court also to expedite the trial but due to lock-down, the evidence could not be concluded. But at the same time, accused cannot suffer for the same. Even otherwise, conduct during interim bail is satisfactory as no complaint is received against him as per record. Further, trial is likely to take some time and no purpose would be served by keeping the accused in JC. In above facts and circumstances, present accused is granted bail subject to furnishing of personal bond in the sum of **Rs. 20,000/- with one sound surety of like amount**, subject to the satisfaction of the learned Trial court and the following additional conditions:

- (i) That he will appear before Trial Court as and when called as per law.*
- (ii) He will not indulge in any kind of activities which are alleged against him in the present case.*
- (iii) That he will not leave India without permission of the Court.*
- (iv) He will not threaten the witness or tampering with evidence.*
- (v) He shall convey any change of address immediately to the IO and the court;*
- (vi) He shall also provide his mobile number to the IO;*

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.

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)
27.10.2020

BAIL APPLICATON of MUNNI @ MONI

State v. Pooja etc.

FIR No.: 292/2014

PS: Rajender Nagar

U/s: 302,392,397,411,120B,34 IPC

27.10.2020

This court is holding physically today as per directions.

Undersigned is also discharging Bail Roster duty.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Ms. Priti Srivastava, Ld. Counsel for applicant Munni @ Moni
who is on interim bail in person.

Part arguments heard.

Issue notice to IO to file reply, if any.

**Put up for reply, arguments and orders through VC on
10.11.2020.**

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

Bail Application

**State Vs Mohit Sharma @ Sunny
S/o Rakesh Sharma
FIR No. : 292/2014
PS: Rajinder Nagar
U/S: 302, 392, 397, 411, 120B, r/w section 34 IPC**

27.10.2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State
Accused in person on interim bail with counsel Mr.
Anang Pal Singh.

Vide this order, the regular bail application dated 21/10/2020 under section 439 Cr.P.C. on behalf of accused 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

**State Vs Mohit Sharma @ Sunny
S/o Rakesh Sharma
FIR No. : 292/2014
PS: Rajinder Nagar**

U/S: 302, 392, 397, 411, 120B, r/w section 34 IPC

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except for a distinct breach of law. If there is no substantial risk of the accused fleeing the course of justice, there is no reason why he should be imprisoned during the period of his trial. The basic rule is to release him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

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

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

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

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

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant

bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745**).

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

**State Vs Mohit Sharma @ Sunny
S/o Rakesh Sharma
FIR No. : 292/2014
PS: Rajinder Nagar**

U/S: 302, 392, 397, 411, 120B, r/w section 34 IPC

judgment of **Gurucharan Singh and others v. State** (AIR 1978 SC 179), it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

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

In the present case, it is submitted on behalf of the accused that now the case is fixed for final arguments; present accused was interim bail 10-12 times including for the purpose of study / appearing in exams and his conduct is very satisfactory; that he timely surrendered back after availing such

interim bail; that his father is not well; that even his mother is Asthma Patient; that he was in JC since 2014, although he is on interim bail at present in view of the order of the High Power Committee; that his conduct inside the jail is also very satisfactory, in fact, he is given letter of appreciation by the Jail Superintendent concerned time and again. As such, it is prayed that no purpose would be served by keeping him in JC. As such, it is prayed that he be granted regular bail.

On the other hand, it is stated in the reply dated 27/10/2020 filed by IO / SHO, as also argued by the learned Addl.PP for the state, that there are specific circumstantial evidence against the present accused including the medical / scientific evidence; that offence involved in question is 302 IPC apart from other offences; that his blood sample matched with the sample found at the scene of crime; that he is correctly identified by the complainant in TIP; that case property is also recovered from the present accused; further knife used in the crime is also recovered at his instance; it is further stated that father of the present accused do not require any special care; it is further stated that there is mother to take care of the father and sister aged about 18 years; As such, present application is strongly opposed.

I have heard both the sides and gone through the record. It is rightly pointed out by the learned Addl. PP for the State that offence is serious in nature including u/s 302 IPC in which minimum punishment is imprisonment for life. Further there are medical / scientific incriminating material on record which is not commented in detail as this is a bail application only. Further, although conduct of the accused is satisfactory while on bail but having regard to the nature of offence, and the material on record this court is not inclined to grant regular bail to the present accused.

The bail application is accordingly disposed off as

**State Vs Mohit Sharma @ Sunny
S/o Rakesh Sharma
FIR No. : 292/2014
PS: Rajinder Nagar**

U/S: 302, 392, 397, 411, 120B, r/w section 34 IPC

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dismissed. Learned counsel for applicant is at liberty to obtain order through electronic mode. Further copy of this order be sent to concerned Jail Superintend, IO / SHO. Copy of order be uploaded on website.

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


(Naveen Kumar Kashyap)
Additional Sessions Judge-04
Central/THC/Delhi
27/10/2020

State Vs Mohit Sharma @ Sunny
S/o Rakesh Sharma
FIR No. : 292/2014
PS: Rajinder Nagar
U/S: 302, 392, 397, 411, 120B, r/w section 34 IPC

State v Sanjay Tiwari & others
(Misc Application)
FIR No: 478/2018
PS: Burari

27.10.2020

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.
Mr. B.S. Tiwari, learned counsel for the applicants through VC.
Accused not present today.

An application for summoning of record / witness already filed and allowed.

Steps be taken within 2 days.

In this matter, there are directions by the Hon'ble Supreme Court of India. In view of the same, the matter is put up for **DE for 20/11/2020 at 12:00 noon at request.**

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

**APPLICATION OF ACCUSED HONEY RAWAT FOR CONDUCTING BONE
OSSIFICATION TEST**

**State v. Imran @ Akhtar
FIR No.: 227/2020
PS: Wazirabad
U/s:302,120B IPC**

27.10.2020

This court is holding physically today as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Sh. Gurtinder Singh Gujral, Ld. Counsel for applicant.
Insp. R.C. Yadav, present in court.

This is an application on behalf of accused Honey Rawat for
conducting bone ossification test.

Issue notice of the same to State.

**Put up for filing of reply, arguments and appropriate
orders for 20.11.2020.**

**(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020**

BAIL APPLICATON of SUNIL RATHORE

State v. Sunil
FIR No.: 415/2015
PS: Kotwali
U/s: 395,397,365,201,412,120B,34 IPC

27.10.2020

**This court is holding physically today as per directions.
Undersigned is also discharging Bail Roster duty.**

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

Some time is sought for arguments.

Shortest date is sought but having regard to other matters including regular bail matters, bail roster matters pending and listed, it is not possible to accommodate the same.

Put up for arguments through VC on 11.11.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

SC No.: 17/2017
FIR No.: 339/2016
PS Darya Ganj
State vs Rahul Sharma & others

27.10.2020

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 24/02/2020, 16/07/2020, 24/07/2020, 28/07/2020 & 05/08/2020. 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.

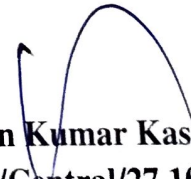
Mr. Akhilesh Kamle, learned counsel for accused Kishan.

Mr. J.S. Mishra, learned counsel for accused Noori.

Accused Rahul Sharma produced from JC and remaining are on bail.

An amended common charge u/s 395, 397, 120B, 395 against all the accused persons and separate charge u/s 397 against accused Rahul Sharma framed to which all accused pleaded not guilty and claimed trial.

In view of such amended charge, put up for further evidence for **15/03/2021**. It is stated by accused Rahul Sharma that he has applied for certified copy of evidence and other documents and the same are not supplied so far. It is stated by the court staff concerned that the same is under process in the concerned branch of certified copy agency. The same is noted.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

(Application of Kishan Kumar)
SC No.: 17/2017
FIR No.: 339/2016
PS Darya Ganj
State vs Rahul Sharma & others

27.10.2020

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.
Mr. Akhilesh Kamle, learned counsel for applicant in person.

Arguments from the learned counsel for applicant on the application relating to release of his vehicle and mobile phone on superdari heard. Further he has relied on certain case laws.

Put up for clarification, if any, for **03/11/2020**.

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

(Application of Kishan Kumar)
SC No.: 17/2017
FIR No.: 339/2016
PS Darya Ganj
State vs Rahul Sharma & others

27.10.2020

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.
Mr. Akhilesh Kamle, learned counsel for applicant in person.

Arguments from the learned counsel for applicant on the application relating to release of his vehicle and mobile phone on superdari heard. Further he has relied on certain case laws.

Put up for clarification, if any, for **03/11/2020**.

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

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

BAIL APPLICATION

State v. Rahul
(APPLICATION OF NOORI)
FIR No. : 339/2016
P. S. : Darya Ganj
U/s: 395,412,120B, 34 IPC

27.10.2020

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. J.S. Mishra, LAC for accused Noori alongwith Noori
in person on interim bail.

Vide this order, regular bail application u/s 439 Cr.PC dated
12.10.2020 filed by applicant through counsel is disposed of.

I have already 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

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

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

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

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

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

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

ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeeep 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.

It is stated in the present case that two of the co-accused are already granted regular bail by Hon'ble High Court, Raghav Jha vide order dated 16.09.2020 and co-accused Krishan Kumar vide order dated 07.08.2020. It is further argued that only passbook recovered from the accused as per prosecution case. Further, she was not even present at the place of alleged offence in question. That she has two small child. That her conduct is very satisfactory during interim bail.

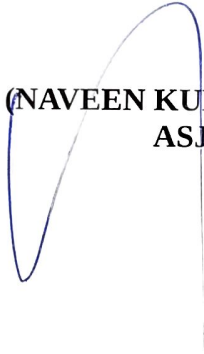
On the other hand, it is argued on behalf of State that offence is very serious in nature. Such accused is main conspirator/informer regarding the looted cash in question. One of the co-accused Saleem is yet to be arrested and rest of looted amount of Rs. 36 lacs is yet to be recovered. That she does not have any permanent address. As such, present bail application is strongly opposed.

In this case, it is a matter of record that two of the co-accused

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are already granted regular bail by Hon'ble High Court. Such co-accused played a active role in committing the offence in question as per the case of prosecution whereas role of present accused is shown as conspirator/informer. Therefore, in view of the reasoning given by Hon'ble High Court and on the ground of parity, **present accused is also granted regular bail** on the same terms and conditions on which co-accused Kishan Kumar is granted regular bail by Hon'ble High Court videw order dated 07.08.2020 in Bail Application no. 1096 of 2020 except that present accused to furnish bail bond in the sum of Rs. 20,000/- with two sureties of like amount. **With these observations, present bail application is disposed of as allowed.**

Copy of this order be sent to both parties through electronic mode.


(NAVEEN KUMAR KASHYAP)
ASJ-04(Central/Delhi)
27.10.2020

Bail Matter No.: 517, 539, 540 & 541 /2020
FIR No: 84/2019
PS: I.P. Estate
State Vs V.K.Jain, Fazar Mohd.,
Sukha @ Imran Khan and Ajit @ Aziz

27.10.2020

Today this court is holding physically hearing as per directions.

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

Mr. Puneet Kumar Jain, learned counsel for applicant / original complainant in the present FIR Mr. V.K. Jain.

None for non applicant.

Further arguments heard from the counsel for the applicant / complainant. Last and final opportunity is granted to non applicant / accused to address arguments, if any, on this application for cancellation of bail.

Put up for **10/11/2020** through VC.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

Bail Matter No.: 1614/2020
FIR No: 11/2020
PS: ODRS
State Vs Mohd. Mehraj

27.10.2020

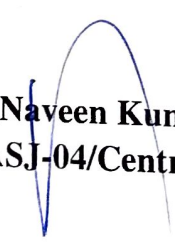
Today this court is holding physically hearing as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Mr. N.A. Amani, learned counsel for applicant.

Fresh application filed. Reply filed by the IO.

It is stated that earliest next date of hearing be given. But having regard to other matter pending in this court including bail matters and bail roster matters, it is not possible to accommodate earlier date.

Put up for reply, arguments and appropriate orders through VC for **09/11/2020**.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

BAIL APPLICATION NO.: 1527/2020

**State v. Mohd Hassan
FIR No.: 176/2020
PS: Sarai Rohilla
U/s:392,394,397,34 IPC**

27.10.2020

This court is holding physically today as per directions.

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

As per report of the concerned Ahlmad, file in question is not received from Ld. Ilaka MM so far.

**Issue notice to IO to appear through VC with case file .
Put up for arguments on 09.11.2020.**

**(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020**



BAIL APPLICATION NO.: 1571/2020

**State v. Dharmender
FIR No.: 256/2020
PS: Prasad Nagar
U/s:376 IPC**

27.10.2020

This court is holding physically today as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
IO WASI Asmita, on behalf of IO Pooja Chaudhary, in person.
None for accused.
Complainant not present today again.

It is stated that complainant is not well and cannot come to the court. Under these circumstances, having regard to the nature of the present case, a copy of this order be sent to Delhi Commission for Women through IO for appointment of a counsel to represent the victim for the purpose of this bail application for the next date of hearing.

Put up for 10.11.2020.

In the meanwhile, interim protection, if any to continue till next date of hearing only to the accused.

**(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020**

BAIL APPLICATION NO.: 1611/2020

**State v. Naimuddin
FIR No.: 144/2019
PS: Hauz Qazi
U/s:326 IPC**

27.10.2020

This court is holding physically today as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Sh. Mohd. Salim, Ld. Counsel for the applicant with accused in person on interim bail.

An application for extension of interim bail filed including on the ground that his mother is still not well and require care by the accused. Certain other grounds are also taken in such application. Same are taken into consideration.

Heard.

This court do not find any reason to extend this interim bail application. As such, accused is directed to surrender in terms of order of Hon'ble High Court of Delhi passed in WP(C) 3037/2020.

Application is disposed of accordingly.

**(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020**



BAIL APPLICATION NO.: 1616/2020

**State v. Nishad Begum
FIR No.: 161/2020
PS: I.P. Estate
U/s:498A,406,377,34 IPC**

27.10.2020

This court is holding physically today as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Sh. Tarun Rana, Ld. Counsel for the applicant through VC.
SI Pratap Singh also present through VC.

Reply filed by IO.

This is fresh anticipatory bail application.

Issue notice to complainant through IO.

Put up for arguments through VC on 10.11.2020.

In the meanwhile, IO is directed not to take any coercive steps against the accused provided they fully cooperate the investigation as per law.

**(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020**

BAIL APPLICATION NO.: 1613/2020

State v. Mohd. Shamshad Qureshi
FIR No.: 161/2020

PS: I.P. Estate

U/s:498A,406,377,34 IPC

27.10.2020

This court is holding physically today as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Sh. Tarun Rana, Ld. Counsel for the applicant through VC.
SI Pratap Singh also present through VC.

Reply filed by IO.

This is fresh anticipatory bail application.

Issue notice to complainant through IO.

Put up for arguments through VC on 10.11.2020.

In the meanwhile, IO is directed not to take any coercive steps against the accused provided they fully cooperate the investigation as per law.

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

BAIL APPLICATION NO.: 1618/2020

**State v. Sajid
FIR No.: 161/2020
PS: I.P. Estate
U/s:498A,406,377,34 IPC**

27.10.2020

This court is holding physically today as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Sh. Tarun Rana, Ld. Counsel for the applicant through VC.
SI Pratap Singh also present through VC.


Reply filed by IO.

This is fresh anticipatory bail application.

Issue notice to complainant through IO.

Put up for arguments through VC on 10.11.2020.

In the meanwhile, IO is directed not to take any coercive steps against the accused provided they fully cooperate the investigation as per law.


**(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020**

BAIL APPLICATION NO.: 1619/2020

**State v. Ashu Sagar
FIR No.: 272/2020
PS: Prashad Nagar
U/s:376 IPC**

27.10.2020

This court is holding physically today as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Sh. Vinay Kumar Sharma, Ld. Counsel for applicant.
WASI Asmita in person.

This is an applicaton for regular bail.

Reply filed by IO.

Issue notice to complainant through IO.

Earlier date is sought but having regard to other matters already pending and listed, it is not possible to accommodate the same.

Put up for arguments and appropriate orders for 11.11.2020 through VC.

**(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020**

BAIL APPLICATION NO.: 1617/2020

State v. Simranjeet Singh
FIR No.: 146/2020
PS: I.P. Estate
U/s:379,411 IPC

27.10.2020

This court is holding physically today as per directions.

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

Reply filed by IO.

**Put up for arguments and appropriate orders for
11.11.2020 through VC.**

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020



BAIL APPLICATION NO.: 1615/2020

**State v. Simranjeet Singh
FIR No.: 57/2020
PS: I.P. Estate
U/s:379,356,411 IPC**

27.10.2020

This court is holding physically today as per directions.

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

Reply filed by IO.

**Put up for arguments and appropriate orders for
11.11.2020 through VC.**

**(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020**



BAIL APPLICATION NO.1542 &1555 of2020

**State v. Abhay Arora
FIR No.: 30/2020
PS: Rajinder Nagar
U/s:307,452 IPC**

27.10.2020

This court is holding physically today as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Sh. Rajat Rai Dua, Ld. Counsel for complainant through VC.
IO SI Ali Akbar through VC.
Sh. Jaiveer Chauhan, Ld. Counsel for applicant in person.

Further arguments in detail heard in post-lunch session.

Put up for orders/clarifications, if any on 02.11.2020.

**(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020**

27.10.2020

Today this court is holding physically hearing as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Learned counsel for the applicant through VC.
Mr. Ravinder Saini, learned counsel for complainant.
WPSI Asmita on behalf of IO Pooja Chaudhary in person.

Further part arguments heard.

At request, put up for further arguments. In the meanwhile, interim order to continue till the next date of hearing only.

Put up for compliance / arguments for **10/11/2020** in terms of previous order dated 17/10/2020.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

Bail Matter No.: 517, 539, 540 & 541 /2020
FIR No: 84/2019
PS: I.P. Estate
State Vs V.K.Jain, Fazar Mohd.,
Sukha @ Imran Khan and Ajit @ Aziz

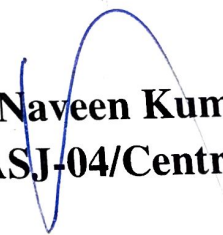
27.10.2020

Today this court is holding physically hearing as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Mr. Puneet Kumar Jain, learned counsel for applicant / original complainant in
the present FIR Mr. V.K. Jain.
None for non applicant.

Further arguments heard from the counsel for the applicant / complainant. Last
and final opportunity is granted to non applicant / accused to address arguments, if any, on
this application for cancellation of bail.

Put up for **10/11/2020** through VC.


(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020

Bail Matter No.: 985, 986, 987 & 988/2020
FIR No: 188/2020
PS: Rajinder Nagar
State Vs Kripal Singh, Angad Singh,
Manjyot Singh & Sukhsharan Kaur

27.10.2020

Today this court is holding physically hearing as per directions.

Present: Mr. Pawan Kumar, learned Addl.PP for State.
Mr. Pradeep Khatri, learned counsel for applicants in person.
Applicants Angad Singh and Manjyot Singh are in person.
Ms. Tarunnam, learned counsel for complainant through VC.
IO is also present through VC.

Arguments in detail heard.

Put up for further arguments, appropriate order / clarification for **09/11/2020**.

In the meanwhile, interim order to continue till next date of hearing only.

(Naveen Kumar Kashyap)
ASJ-04/Central/27.10.2020