

State Vs. Arun Saini

FIR No. 154/2020

PS Rajender Nagar

रिशभ कपूर
RISHABH KAPOOR
महानगर दण्डाधिकारी-3
Metropolitan Magistrate-3
केन्द्रीय जिला कमरा नं. 150
Central District, Room No. 150
तीस हजारी न्यायालय, दिल्ली
Tis Hazari Courts, Delhi

28.07.2020

Present: Sh. Vakil Ahmad Ld. APP for State (through VCC over Cisco Webex)

Sh. Vikas Kataria Ld. Counsel for applicant/accused (through VCC over Cisco Webex)

IO/SI Krishan Pal (through VCC over Cisco Webex)

Matter is heard through VCC over CISCO Webex Application at 12:59 PM.

The present urgent application was filed on behalf of the applicant/accused on email id of this court on 27.07.2020. Same is taken up for hearing through VCC in view of Circular No. 6797-6899/CMM/Central/DR/2020 dated 29.06.2020.

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

This order shall dispose of the **Second bail application** moved u/s 437 Cr.PC., on behalf of **applicant/accused Arun Saini**.

It is averred on behalf of accused/applicant that he has been falsely implicated in the present case. It is further averred that applicant/accused has no involvement in the present case. It is further averred that the allegations made in the FIR does not constitute any offence. With these averments, prayer is made for grant of bail to accused.

Ld. APP for the State submits that the accused shall not be released on bail as he is a habitual offender, having previous involvements. It is also contended that the present successive bail application of accused is not maintainable without establishing any changed circumstances in the case.


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At the very outset, it is pertinent to mention here that the present application is the second bail application moved on behalf of the applicant, seeking his enlargement on bail. It may be added here that the earlier bail application of applicant/accused has already been dismissed by this court on 01.07.2020. The bare perusal order passed in earlier bail application of applicant/accused would reveal that the earlier bail plea was rejected on account of his possibility of dissuading the witnesses and likelihood of his indulgence in offences of like nature in view of his previous bad antecedents and also on account of impending arrests of co-accused namely Monu Jaat and Gopal. However, in this regard it is pertinent to mention here that even though there is no bar in entertaining successive bail applications, by consideration before the same court. There also lies not time-limit, set for moving the court for bail, after the first or previous bail application, is rejected. But, it should be only when some new facts and circumstances have been developed, after rejection of previous bail application, then only the successive bail application should be considered on merits. **In Parvinder Singh vs. State of Punjab 2003 12 SCC 528**, the Hon'ble apex court held that though an accused has right to move successive bail applications for grant of bail, but the court entertaining such subsequent application, has a duty to consider the reasons and grounds on which earlier bail applications were rejected. In such cases, the court has a duty to record what are the fresh grounds which persuade it to take a view, different from one taken in earlier application. Similarly, in **State of Madhya Pradesh versus Kajad AIR 2001 SC 3517**, it was held that it is true that successive bail application are permissible under the changed circumstances, but without the change in circumstances, the second bail application would be deemed, seeking review of earlier judgment, which is not permissible under the criminal law.

Now, coming to the contentions advanced on behalf of the accused/applicant, qua changed circumstances justifying maintainability of present application. As per the version of the applicant's counsel, the applicant/accused is undergoing custody since last 35 days and on account same, his family is suffering financial constraints, hence in view of this changed circumstance, the present bail application can well be entertained by this court. In this regard, it is pertinent to add that the authorities cited above clearly suggests that the successive bail applications are maintainable before the same court only when, circumstance which led to the dismissal of earlier application, is shown to have been changed. Mere, branding a circumstance or glossing it with a term '*changed circumstance*', does not, fall under the purview of circumstance, which leads to maintainability of successive bail application, unless the same has direct bearing on the grounds upon which the decision on earlier application was made. If, without establishing the said changed circumstance, the court ventures itself into entertaining the successive bail applications, it virtually tantamounts to review of its own order, which certainly is not contemplated under the scheme of Code of Criminal Procedure. As far as the assertions of the counsel for applicant are concerned, pertinently, the perusal of the order passed in first bail

Julius
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application of applicant/accused is suggestive of the fact that same was dismissed by this court primarily on three counts which are; first, the previous bad antecedents of the applicant, justifying the apprehensions of the prosecution regarding the possibility of commission of offences of like nature by the accused/applicant. Pertinently, on establishing the fact by prosecution that the applicant has denied antecedents, as he having previous involvements in certain other cases involving serious offences, there also existed a likelihood that if admitted on bail, the applicant will dissuade the prosecution witnesses, and lastly on account of impending arrests of co-accused namely Monu Jaat and Gopal. The fact that, the applicant has previous denied criminal antecedents still subsists and as such nothing cogent has been placed on record on behalf of the accused/applicant vanishing the apprehension of the prosecution or that if admitted on bail, the accused will not indulge himself in offences of similar nature. Besides, the co-accused persons namely Monu Jaat and Gopal are still absconding. Therefore, I am of the view that the present application as moved on behalf of applicant lacks any maintainability.

In the light of my discussion made above, and also placing on reliance on the authorities cited above, since the earlier bail application of the applicant was dismissed on the ground of existence of likelihood of commission of offences of similar nature by the applicant, in case of his release and also upon appreciating possibility of his dissuading the prosecution witnesses as well as impending arrests of co-accused persons, therefore merely on account of fact that the applicant is in custody since 35 days, the prayer of the applicant cannot be accepted

In such circumstances, this court is of the firm view that no ground for grant of bail is made out to the **accused/applicant Arun Saini**. Accordingly, the present application deserves dismissal and same is hereby **dismissed**.

Scanned copy of this order is being sent to Sh. Awdhesh Kumar Rai (Reader) through whatsapp/email for transmitting the same to the Ld. Counsel for applicant/accused and also for compliance.

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



(RISHABH KAPOOR)

MM-03 (Central), THC, Delhi

28.07.2020

State Vs. Unknown (through Applicant Mohd. Javed)

e-FIR No. 113/2019

PS: I.P. Estate

28.07.2020

रिशभ कपूर
RISHABH KAPOOR
महानगर दण्डाधिकारी-03
Metropolitan Magistrate-03
केन्द्रीय जिला कमरा नं. 150
Central District, Room No. 150
सीस हजारी न्यायालय, दिल्ली
Tis Hazari Courts, Delhi

Present: Sh. Hariom Mishra Ld. Counsel for applicant (through VCC over Cisco Webex)

Sh. Vakil Ahmad Ld. APP for State (through VCC over Cisco Webex)

IO/ HC Bittu Tomar (through VCC over Cisco Webex)

Matter is heard through VCC over CISCO Webex Application at 12:50 PM.

The present urgent application was filed on behalf of the applicant on email id of this court on 27.07.2020. Same is taken up for hearing through VCC in view of Circular No. 6797-6899/CMM/Central/DR/2020 dated 29.06.2020.

Scanned copy of reply under the signatures of HC Bittu Tomar is received through email. Copy of same stands supplied to counsel for applicant, electronically.

This order shall dispose off the application for release of **Honor 9 Lite mobile phone** on Superdari, moved on behalf of **applicant Mohd. Javed**.

In reply filed by IO/HC Bittu Tomar, it has been stated that in connection with the present case FIR the **Honor 9 Lite** mobile phone is lying in the custody of the police at PS I.P. Estate. IO has stated that complainant Mohd. Javed has informed him that aforesaid mobile phone was purchased by him in his own name. IO has raised no objection if the aforesaid mobile phone is released on superdari.

For the purposes of identity applicant has sent scanned copy of his Aadhar ID card. Scanned copy of bill pertaining to mobile phone is also sent to email id of court along with the application

On perusal of the report of the IO and the documents appended with the application, as it prima facie emerges that applicant Mohd. Javed is the owner of the **Honor 9 Lite** mobile phone in question. If that be so, he prima facie appears to be entitled for the custody of mobile phone in question.

In these circumstances and as per directions of **Hon'ble High Court of Delhi** in

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matter of **"Manjit Singh Vs. State"** in CrI. M.C. No.4485/2013 dated 10.09.2014, the aforesaid the mobile phone be released to the applicant / owner subject to the following conditions:-

1. *Honor 9 Lite* mobile phone in question be released to its owner only subject to furnishing of indemnity bond as per its value, to the satisfaction of the concerned SHO/ IO subject to verification of documents.
2. IO shall prepare detailed panchnama mentioning the colour, IMEI NO., ownership and other necessary details of the mobile phone in question.
3. IO shall take the colour photographs of the mobile phone from different angles and also of the IMEI number of the mobile phone in question.
4. The photographs should be attested and counter signed by the complainant/applicant and accused.
5. IO is directed to verify the bill/invoice of the mobile in question and release the same to the applicant.

Scanned copy of this order is being sent to Sh. Awdhesh Kumar Rai (Reader) through whatsapp/email for transmitting the same to the counsel for applicant and IO/SHO concerned, electronically, and for necessary compliance.

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


(RISHABH KAPOOR)
MM-03 (Central), THC, Delhi
28.07.2020