

State Vs. Farooq

FIR No: 25/2020

Under Section: 435/436/506/34 IPC

PS: Bara Hindu Rao

30.07.2020

Through video conferencing

This is an application under Section 439 Cr.P.C for grant of regular bail filed on behalf of accused/applicant.

Present: Sh. Alok Saxena, Ld. APP for the State

Ms Neetu Singh, Ld. Legal Aid Counsel for applicant/accused

Reply filed by IO. Copy of same supplied to other side electronically.

Ld. Legal Aid Counsel for accused has argued for grant of bail on the ground that accused has been falsely implicated in the present case and there is no evidence against him. It is further argued that accused is no more required for investigation as chargesheet has already been filed. It is argued that accused is in JC since 09.03.2020 and, therefore, deserves to be granted bail in the facts and circumstances of the case.

Per Contra, Ld. APP for State has argued for dismissal of the bail application on the ground that allegations against the accused are grave and serious in nature. It is further argued that accused may threaten the witnesses, if released on bail.

I have heard rival contentions and perused the record.

The allegations against the accused are that he in furtherance of his common intention along with other co-accused, caused mischief (by fire) by setting on fire as many as nine vehicles belonging to different victims and in that process few neighbourhood shops and houses also got damaged.

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The allegations against applicant are grave and serious in nature. The eye-witnesses namely Nawabuddin and Ashkin have seen the accused exorting the co-accused for committing the alleged offence of mischief by fire. He has further been specifically named by the eye-witnesses. The act of accused, thereby causing mischief by fire, was not only criminal but also carried a greater degree of risk as the same might have resulted into loss/injury to precious human life also but for the good fortune of the people residing in the vicinity.

The mere fact that investigation is complete and charge sheet has been filed does not necessarily confer a right on the accused to be released on bail. It would be apposite to refer to the decision of Hon'ble Supreme Court in the case of **Virupakshappa Gouda Vs. State of Karnataka, Criminal Appeal No. 601/2017, dated 28.03.2017**. In that case, the earlier application for bail had been rejected. Later, charge-sheet was filed. Taking note of the fact that investigation is no longer pending and after referring to the judgment of **Hon'ble Supreme Court in the case of Sanjay Chandra Vs. Central Bureau of Investigation, 2012 CRI. L.J. 702**, the Trial Court allowed the bail application and released the applicant on bail. The Hon'ble Supreme Court held that bail should not have been granted and the filing of charge-sheet is not a circumstance that tilts the scales in favour of the accused in grant of bail. The Hon'ble Supreme Court also held that its observations in the Sanjay Chandra case (ibid) "cannot be made applicable in each and every case for grant of bail." The following extract of the decision of Hon'ble Supreme Court is relevant:

"On a perusal of the order passed by the learned trial judge, we find that he has been swayed by the factum that when a charge-

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sheet is filed it amounts to change of circumstance. Needless to say, filing of the charge-sheet does not in any manner lessen the allegations made by the prosecution. On the contrary, filing of the charge-sheet establishes that after due investigation the investigating agency, having found materials, has placed the charge-sheet for trial of the accused persons."

In the case of **Masroor Vs. State of U.P. and Another 2009 (6) SCALE 358**, the Hon'ble Supreme Court observed thus :

"There is no denying the fact that the liberty of an individual is precious and is to be zealously protected by the Courts. Nonetheless, such a protection cannot be absolute in every situation. The valuable right of liberty of an individual and the interest of the society in general has to be balanced. Liberty of a person accused of an offence would depend upon the exigencies of the case. It is possible that in a given situation, the collective interest of the community may outweigh the right of personal liberty of the individual concerned".

The offence U/s 436 IPC is quite grave in nature and punishable with imprisonment upto life. In view of the above, I am not inclined to release the applicant/accused Farooq on bail. His bail application is accordingly dismissed.

Copy of this order be sent to concerned Jail Superintendent/SHO/IO/Ld. Legal Aid Counsel through official e-mail for information.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
30.07.2020

CA NO: 439/19

Ravinder Kumar Jain vs Madhu Gupta

30.07.2020

Through video conferencing

Present: Sh. Ankit Rai, Ld. Counsel for applicant/respondent.
Sh. Anuj Gupta, Ld. Counsel for non-applicant/appellant
alongwith appellant.

Ld. Counsel for non-applicant/appellant has given his consent to address arguments through VC.

At joint request, put up for final arguments through VC on 26.08.2020.

Parties shall file their brief written arguments by 16.08.2020 electronically on the official e-mail ID of this court.

Ld. Counsel for applicant/respondent has undertaken to supply soft copy of complete set of paper book i.e. appeal/TCR record to the other side. Ld. Counsel for applicant submits that though the complete paper book has also been filed in the court electronically while moving the present application, same shall be sent afresh electronically for the convenience of this court. Reader/Ahlmad shall compare the soft copies of the paper book with the original record and thereafter, send the same to the undersigned electronically on 16.08.2020.

Put up on 26.08.2020.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
30.07.2020

State Vs. Goldy @ Abhishek

FIR No: 198/2020

Under Section: 356/379/411/34 IPC

PS: Subzi Mandi

30.07.2020

Through video conferencing

This is an application under Section 439 Cr.P.C for grant of regular bail filed on behalf of accused/applicant.

Present: Sh. Alok Saxena, Ld. APP for the State.

Sh. P.K Garg, Ld. Counsel for applicant/accused.

Reply filed by IO. Copy of same supplied to other side electronically.

Ld. Defence counsel has argued that accused has been falsely implicated in the present case and he is in custody since 05.07.2020. It is argued that accused is sole bread earner of his family and there is no one to look after his family in his absence. It is further argued that applicant/accused is a young boy aged about 19-20 years of age, having no previous involvement. It is argued that applicant/accused was arrested on the disclosure statement of co-accused and instead of opting for Test Identification Proceedings, IO chose to show accused to complainant by taking latter alongwith him while arresting the accused. It is further argued that investigation has already been completed and therefore, no purpose would be served by keeping the accused behind the bars.

Per contra, Ld. APP for the state has vehemently opposed the bail application on the ground that the allegations against the accused/applicant are grave and serious as cases of snatching are increasing day by day in the city. It is argued that accused/applicant may threaten the witnesses, if enlarged on bail.

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State Vs. Goldy @ Abhishek

FIR No: 198/2020

Under Section: 356/379/411/34 IPC

PS: Subzi Mandi

I have heard rival contentions and perused the record.

The accused is a young person having clean antecedent. He is no more required for investigation as recovery has already been effected from co-accused. In my view, no purpose would be served by keeping the accused behind bars. Therefore, in the facts and circumstances of the case, **accused/applicant Goldy @ Abhishek** is admitted to bail on furnishing **Personal Bond and Surety Bond** in the sum of **Rs. 10,000/-** to the satisfaction of concerned **Ld. Magistrate/Ld. Duty Magistrate**.

Copy of the order be sent to concerned **Ld. Magistrate/ jail superintendent/IO/SHO** and **Ld. Defence counsel** through official e-mail.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
30.07.2020

State Vs. Ravi Kumar @ Dedha

FIR No: 240/2020

Under Section: 308/325/342/392/34 IPC

PS: Wazirabad

30.07.2020

Through video conferencing

This is an application under Section 439 Cr.P.C for grant of regular bail filed on behalf of accused/applicant. T

Present: Sh. Alok Saxena, Ld. APP for the State.
Sh. Nitin Arora, Ld. Counsel for applicant/accused.
Sh. Deepak Sharma, Ld. Counsel for complainant.
IO ASI Arun present(through VC)

Reply filed by IO. Copy of same supplied to other side electronically.

Part arguments heard.

Put up for remaining arguments on 05.08.2020.

In the meantime, SHO/IO shall file a comprehensive report afresh annexing therewith the record of all PCR calls made by any of the parties on the alleged date of incident. IO shall also file copy of replies filed by him before the Ld. Magistrate and the relevant CCTV Footage (collected during investigation) electronically by next date of hearing i.e. 05.08.2020.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
30.07.2020

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State Vs. Vineet Kumar

FIR No: 113/2019

Under Section: 307/324/34 IPC

PS: Sadar Bazar

30.07.2020

Through video conferencing

This is an application for disposal of pending bail application dated 17.12.2019 moved on behalf of accused/applicant.

Present: Sh. Alok Saxena, Ld. APP for the State.

Sh. Chaman Lal, Ld. Counsel for accused/applicant.

Heard. Considered.

In the facts and circumstances of the present case, the pending bail application of accused is taken up for disposal today itself.

Reply by IO filed. Copy of same supplied to other side electronically.

Part arguments heard. During course of arguments, Ld defence Counsel requests for adjournment on the ground that bail application of co-accused is listed on 14.08.2020 before Hon'ble High Court and he shall address the remaining arguments after the disposal bail application of co-accused.

In these circumstances, put up for remaining arguments on bail application on **28.08.2020**.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
30.07.2020