

IN THE COURT OF ANKUR JAIN
ADDITIONAL SESSIONS JUDGE: SFTC (WEST)-01: DELHI

FIR No : 593

/2016

PS: Ranhola
STATE VS. JAVED ALAM

Hearing took place through Cisco WebEx.

10.08.2020

File taken up for hearing in terms of Circular No. 26-DHC/2020 dated 30.07.2020 of Hon'ble High Court of Delhi and No. 1977-2009/DHC/2020 dated 30.07.2020.

Present: Mr. Subhash Chauhan, Ld. Addl.PP for State.
Ms. Arti Pandey, DCW counsel
Accused produced from JC.
Mr. Mukul Gupta, Ld. Counsel for accused.

The case is listed for SA.

The Hon'ble Delhi High Court in **United Phosphorus Ltd. Vs. Sunita Narain 2011 (3) A.D. (Delhi) 692** had held that written statement under warrant trial cases can be permitted. While coming to the conclusion the Hon'ble Delhi High Court relied upon **Basavaraja R. Patil & Ors. Vs. State of Karnataka & Ors. 2000 (8) SCC 740** and **Keya Mukherjee Vs. Magma Leasing Limited & Anr. 2008 (8) SCC 447**. In the said cases the Hon'ble SC categorically held that:-

“Section 243 (1) of the code enables the accused, who is involved in the trial of warrant case instituted

on police report, to put in any written statement. When any such statement is filed, the court is obliged to make it part of the record of the case.

.....**Even the accused involved in offences exclusively triable by the court of sessions can also exercise such a right to put in written statement (Section 233 (2) of the code).** It is common knowledge that most of such written statements, if not all, are prepared by the counsel of the accused. If such written statements can be treated as statements directly emanating from the accused hook, line and sinker, why not the answers given by him in the manner set out hereinafter, in special circumstances, be affected the same worth”.

In the light of the prevailing situation, it is not possible to have a definite day when the accused person can be produced physically. The accused is languishing in jail and therefore, it is a justified ground to not only seek his written statement in addition to the questions which will be put to him through video conferencing, so that no prejudice is caused to him.

1. The statement of accused shall be sent to the accused through Jail Superintendent who shall explain the same to the accused in vernacular. A copy thereof be also sent to his counsel.

2. The accused shall thereafter answer the questions on the next date of hearing through VC.
3. The Jail Superintendent shall identify the signatures of the accused and attest the same, and send the scanned copy in PDF format to the official email id of this court.
4. The written statement shall be filed within a week thereafter which shall contain an undertaking that issue of prejudice, in recording the statement of the accused shall not be raised at any subsequent stage or even at the appellate stage.

The copy of this order be sent to counsel for the accused, Jail Supdt and to Id Addl PP for the state for compliance and information. The Counsel for the accused is at liberty to suggest any other mode if he deems fit in recording the statement of the accused, so as to ensure fair and speedy trial.

Put up for recording of S.A. on **18.08.2020**

(Ankur Jain)
ASJ (SFTC-01) West
Delhi: 10.08.2020