

FIR No. 243/2018
PS Nabi Karim
State v. Shiva
U/s 302/34 IPC
07.08.2020

Fresh application received. Be registered.

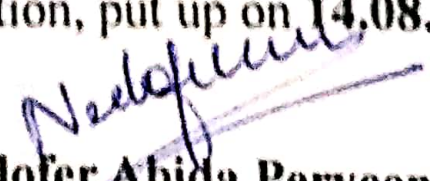
Present: Sh. K.P.Singh, Ld. Addl. PP for State (through video conferencing)

Sh. Kamaldeep, counsel for accused-applicant (through video conferencing)

This is an application under Section 439 CrPC for grant of bail on behalf of accused Shiva in case FIR No. 243/2018 invoking guidelines issued by the High Powered Committee of Hon'ble High Court of Delhi dated 18.05.2020 in order to decongest the prisons in Delhi in the wake of outbreak of covid-19.

Reply is filed. However, report in respect of previous involvement not filed. Report in respect of previous involvement report in respect of accused Shiva be filed on or before next date of hearing. Let custody certificate and conduct report of the accused-applicant Shiva be also called for from Jail Superintendent.

For report and consideration, put up on **14.08.2020**


(Neelofer Abida Perveen)
ASJ (Central)THC/Delhi
07.08.2020

FIR No. 277/2018

PS Sarai Rohilla

State v. Ajay Singh

U/s 302/364A/120B/34 IPC

07.08.2020 Fresh application received.

Present: Sh. K.P.Singh, Ld. Adll. PP for State (through video conferencing)

Sh. Anil Kumar Jha, counsel for accused-applicant (through video conferencing)

This an application under Section 439 CrPC for grant of interim bail of 45 days on behalf of accused Ajay Singh in case FIR No. 277/2018 invoking guidelines issued by the High Powered Committee of Hon'ble High Court of Delhi dated 18.05.2020 in order to decongest the prisons in Delhi in the wake of outbreak of covid-19.

Ld. Counsel for the accused-applicant submits that accused is JC since 20.07.2018 and fulfill all the criteria laid down by the High Powered Committee of Hon'ble High Court of Delhi dated 18.05.2020 in order to decongest the prisons in Delhi in the wake of outbreak of covid-19.

Reply is forwarded and previous involvement report is also received. No previous involvement is reported in respect of the accused-applicant. Let custody certificate and conduct report of the accused-applicant Ajay Singh be also called for from Jail Superintendent. For report and consideration, put up on 14.08.2020

(Neelofar Abida Perveen)

ASJ(Central)THC/Delhi

07.08.2020

FIR No. 238/2018
PS Sarai Rohilla
State v. Ashok
U/s 302/120B IPC

07.08.2020

Present: Sh. K.P.Singh, Ld. Addl. PP for State.

Sh. Durgeshwar Dwivedi, counsel for accused-applicant
(through video conferencing)

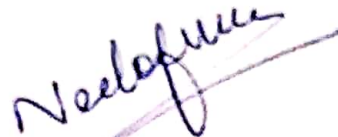
This an application under Section 439 CrPC for grant of interim bail of 45 days on behalf of accused Ashok in case FIR No. 238/2018.

Report in respect of accused Ashok is received from Jail Superintendent to the effect that accused Ashok is in custody in the present case from 22.06.2018 and that his over all conduct in jail is satisfactory / good and he has not been awarded any punishment in jail till today. As per report received from the IO, accused-applicant is not involved in any other case.

In such facts and circumstances relying upon the guidelines issued by the High Powered Committee of Hon'ble High Court of Delhi dated 18.05.2020 for release of undertrial prisoners for 45 days interim bail in order to decongest the prisons in Delhi in the wake of out break of covid-19 pandemic, and as the accused-applicant fulfills all the criteria prescribed under the guidelines, **interim bail for 45 days is granted to the accused Ashok in case FIR No. 491/2017 on furnishing personal bond in the sum of Rs.50,000/- to the satisfaction of the Jail Superintendent concerned and subject to the condition that accused-applicant shall deposit his passport**

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if he holds one with the IO and that during the period of interim bail he shall not in any manner threaten/ influence the witnesses in this case or tamper with the evidence or interfere with the course of justice in any manner whatsoever, and shall furnish his mobile phone number and that of one responsible member of the family to the IO and shall ensure that the mobile phone number remains throughout on switched on mode with location activated and shared with the IO. That the accused-applicant shall not leave the territorial limits of NCR Region without prior intimation to the IO concerned.



(Neelofer Abida Perveen)
ASJ (Central)THC/Delhi
07.08.2020

FIR No. 91/2018

PS: Kotwali

State Vs. Mohsin Alam

U/s 342/395/397/412/120B IPC and 25/27/54/59 Arms Act

07.08.2020

Present: Sh. K.P.Singh, Ld. Addl. PP for State.

Sh. Akram Khan, Counsel for accused-applicant (through video conferencing)


Hearing conducted through Video Conferencing.

This is an application for extension of interim bail granted to the accused-applicant namely Mohsin Alam in case FIR No. 91/2018 vide order dated 22.06.2020 of 45 days in accordance with the guidelines issued by the High Powered Committee of Hon'ble High Court of Delhi dated 07.04.2020.

The prayer for extension, however, is rendered infructuous in the wake of the directions issued by the Hon'ble the High Court of Delhi in WP (C) No. 3080/2020 titled as Court on its own motion v. Govt. of NCT Delhi & Anr. Dated 04.08.2020 vide which accepting the recommendation of High Powered Committee dated 31.07.2020, the interim bail for a period of 45 days granted to 2901 UTPs as per High Powered Committee criteria has been are ordered to have been extended by another period of 45 days from the date of the respective expiry on the same terms and conditions. Case of the accused-applicant is covered under the blanket order of Hon'ble High Court dated 31.07.2020 of extension of interim bails. There arises no necessity by this Court to pass individual extension orders separately in

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every such case covered under the blanket order extending interim bails granted as per Covid-19 criteria by further period of 45 days. Application is disposed of as infructuous in terms of order dated 04.08.2020 passed by the Hon'ble the High Court of Delhi in WP (C) No. 3080/2020 titled as Court on its own motion v. Govt. of NCT Delhi & Anr.


(Neelofer Abida Perveen)
ASJ (Central)THC/Delhi
07.08.2020

FIR No. 117/2016
PS: Sarai Rohilla
State Vs. Ajeet Singh Verma
U/s 302/34 IPC

07.08.2020

Present: Sh. K.P.Singh, Ld. Addl. PP for State (through video conferencing)
Sh.Nishant Rana, Counsel for accused-applicant (through video conferencing)

Hearing conducted through Video Conferencing.

This is second application on behalf of accused-applicant Ajeet Singh Verma for grant of interim bail of two months in case FIR No. 117/2016.

Ld. Counsel for the accused-applicant submits that wife of the accused-applicant was to be operated upon 05.08.2020, however, due to financial crunch and also some other medical complications the date of surgery is now given for 12.08.2020. That accused-applicant is the sole bread earner for the family and that accused-applicant has two sons, one of whom is married and is living separately and presence of accused-applicant is necessary in order to arrange funds and in order to take care of the wife before, during and after surgery.

Ld. Addl. PP for State submits that medical documents have been verified and that it has been reported that surgery was scheduled for 05.08.2020 but same could not be performed due to financial crunch at the end of the patient and now surgery is to be performed on 12.08.2020.

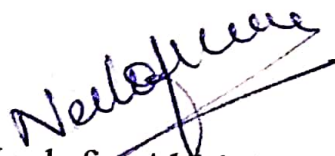
In view of the medical report that the wife of the accused-applicant is to be operated upon on 12.08.2020 and also as per the report bed rest of 15-20 days is likely to be required by the wife of the accused-applicant post surgery, application is allowed and accused-applicant Ajeet Singh Verma is granted interim bail of three weeks on the ground of surgery of his wife, upon

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furnishing personal bond in the sum of Rs.50,000/- with two sureties in the like amount to the satisfaction of this Court / Ld. Duty MM and subject to the condition that accused-applicant shall deposit his passport if he holds one with the IO, that he shall mention his mobile phone number and mobile phone number of sureties, which numbers it shall be ensured by the accused and sureties remain switched on mode throughout the period of interim bail with location activated and shared with the IO at all times. Moreover, once in 24 hours every day, accused-applicant through said mobile phone shall telephonically inform the IO about his whereabouts. That accused shall not threaten, intimidate witnesses or interfere with the course of justice or tamper with the evidence in any manner. That accused-applicant shall not leave the Delhi NCT without the prior permission of the Court.

Applicant-accused to surrender on expiry of the interim bail period.

Application stands disposed of.


(Neelofer Abida Perveen)
ASJ(Central)THC/Delhi
07.08.2020

FIR No. 20/2019
PS: Chandni Mahal
State Vs. Mohd. Nadeem
U/s 392/397/394/411/34 IPC

07.08.2020

Present: Sh. K.P.Singh, Ld. Addl. PP for State (through video conferencing)

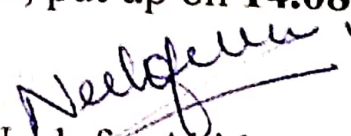
Sh. Ayub Ahmed Quresh, Counsel for accused-applicant
(through video conferencing)

Hearing conducted through Video Conferencing.

This is an application under Section 439 CrPC for grant of bail on behalf of accused Mohd. Nadeem in case FIR No. 20/2019 invoking guidelines issued by the High Powered Committee of Hon'ble High Court of Delhi dated 18.05.2020 in order to decongest the prisons in Delhi in the wake of outbreak of covid-19.

Reply be filed alongwith previous involvement report in respect of accused Mohd. Nadeem on or before next date of hearing. Let custody certificate and conduct report of the accused-applicant Mohd. Nadeem be also called for from Jail Superintendent.

For report and consideration, put up on **14.08.2020**.


(Neelofer Abida Perveen)
ASJ (Central)THC/Delhi
07.08.2020

FIR No. 243/2017

PS: Burari

State Vs. Deepak

U/s 302/380/411/201/120B/34 IPC & 25 Arms Act

07.08.2020

ORDER

This is an application under Section 439 CrPC for grant of bail on behalf of accused Deepak in case FIR No. 243/2017 invoking guidelines issued by the High Powered Committee of Hon'ble High Court of Delhi dated 18.05.2020.

Ld. Counsel for the accused-applicant submits that co-accused Feroz has already been granted bail in accordance with guidelines dated 18.05.2020 and that the accused-applicant fulfills all the criteria under the guidelines issued by High Powered Committee dated 18.05.2020. That the accused-applicant has no connection whatsoever with any of the murders and that the accused-applicant is falsely implicated on the statement of co-accused Sahib Khan on 22.05.2017. That there is no evidence worth credence against him except a false disclosure made by co accused Sahib Khan. That the co-accused Sahib Khan has falsely taken the name of the accused-applicant as there was a loan transaction between them. that the prosecution has no material to show the existence of any motive as to why the accused-applicant would join Sahib Khan in such a criminal act. That the accused belongs to a respectable family has absolutely clean antecedents and was a brilliant student pursuing B.Com when his entire life is ruined and

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he is entraped falsely in this case. That now even Sahib Khan the main accused has been granted Bail and his case is certainly at a better footing than Sahib Khan.

Ld. Addl. PP, on the other hand, submits that accused is involved in murder of six members of the family. Two dead bodies were recovered from Delhi and three dead bodies were recovered from Meerut. That accused-applicant is also an accused in case FIR No. 245/2017. That firstly wife and two daughters of Munawar Hasan were murdered in cold blood in the intervening night of 20.04.2017 at Durali, UP and their dead bodies buried, and thereafter two sons of Munawar Hasan namely Shakib and Akib were murdered on 21.04.2017 in Delhi and their dead bodies were buried in the same premises where they were murdered. Thereafter Munawar Hasan was murdered on 20.05.2017. That all the members of the family six in number were killed in pursuance to a criminal conspiracy in order to grab the properties of Munawar Hasan. The weapon of offence i.e. one revolver, two countrymade pistol with live cartridges used in the murder were recovered in pursuance to the disclosure statement made by the accused as well as the car used in commission of the offence. That Co-accused Feroz has been granted interim bail under the guidelines as he has role in the murder of Munawar Hassan only and is an accused in the present case FIR only whereas the accused applicant is involved in three murders and is named a san accuse in the present FIR as well as FIR No.245/2017. That multiple murders constitutes a distinct category and has not been specifically included under the guidelines dated 18.5.2020.

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Heard.

FIR No. 243/2017 dated 20.05.2017 under Section 302 IPC came to be registered on the statement of co-accused Sahib Khan @ Bunty along the lines that he is a property dealer and the deceased Munawar Hasan is also a property dealer and he was in visiting terms with Munawar Hasan and that on 19.05.2017, he alongwith one Babu and Yogesh in connection with some professional dealings went to the house of Munawar Hasan and at around 12 am in the night, Munawar Hasan had told him that on 20.05.2017, he had to go to the Court at 10 am and had asked him to meet with him in early morning or after 1 pm when he returns from the Court and in the meanwhile there was some altercation with the occupant of the ground floor namely Phool Singh. Thereafter, he left the house of Munawar Hasan alongwith Babu and Yogesh and that on 20.05.2017 when he called up Munawar Hasan on his mobile phone at 8.30 am he did not answer and on the same date he alongwith Deepak, accused-applicant, went to the house of Munawar Hasan on a motorcycle at around 1 pm and found that main door was lying open. He called out for Munawar Hasan but got no response and he alongwith Deepak, accused-applicant, entered the house of Munawar Hasan and found Munawar Hasan lying with his face down on his stomach in the bathroom in a pool of blood with injury marks along the waist at which he made call at 100 number.

FIR no.243/17 was initially registered against unknown persons. In the course of investigation, it came to light that the deceased Munawar Hasan was accused in case FIR No. 187/2015 under Section 376D

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IPC PS Burari and on 17.05.2017 he had been released on interim bail as his family had gone missing and their respective mobile phones were also switched off. He filed missing persons report as his family consisting of his wife two daughters and two sons were untraceable and missing. The tenant on the ground floor was joined in the investigation who reported to have seen three persons coming down the backside stairs who secretly left the premises at around 7.30 – 8 am in the morning but he could not identify them and could catch glimpse of their backside only. As the FIR No. 243/2017 was registered in respect of murder of Munawar Hasan, on the statement of Sahib Khan, co-accused Sahib Khan @ Bunty was also joined in the investigation alongwith accused-applicant but both of them made contradictory statements thereby arousing suspicion and when confronted, Sahib Khan @ Bunty confessed to have conspired to commit murder of Munawar Hasan and his entire family of six members alongwith accused-applicant Deepak and other co-accused and on the disclosure statement, the dead bodies of the wife, two sons and two daughters were recovered, as also the murder weapon. After investigation, chargesheet is filed against Sahib Khan @ Bunty, Deepak, Zulfikar, Feroz, Jaswant Singh @ Raja and Sameer @ Wajid for commission of offences under Section 302/120B, 201/380/411/34 IPC read with 25/27/54/59 of Arms Act in case FIR No. 243/2017 in respect of Munawar Hasan.

FIR No. 245/2017 is registered on 21.05.2017 under Section 363/365 IPC in respect of the kidnapping / abduction of the wife, two daughters and two sons of Munawar Hasan and chargehset is presented

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against Deepak, Zulfikar, Sahib Khan @ Bunty, Jaswant Singh @ Raja and Sameer @ Wajid for commission of offences under Section 363/365/302/392/411/201/120B/34 IPC in respect of abduction and murder of the wife, two daughters and two sons of Munawar Hasan. After presentation of the chargesheet, both the case FIRs have been consolidated for the purposes of trial and charges have been framed by one common order in both the case FIRs on 12.10.2018 under 15 counts against all the accused.

Accused-applicant Deepak alongwith co-accused in pursuance of a criminal conspiracy to commit the murder of Munawar Hasan and of his entire family consisting of his wife, two daughters and two sons is charged for the commission of the murder of Akib and Sakib who both are sons of Munawar Hasan besides the murder of Munawar Hasan himself. Out of the six members of the family accused-applicant is involved in the murder of three victims. He is an accused in case FIR No. 243/2017 that pertains to the murder of Munawar Hasan and also in FIR No. 245/2017 pertaining to the abduction and murder of wife, two daughters and two sons of Munawar Hasan. Accused-applicant is charged under Section 302 IPC read with 120B IPC for murder of Akib and Shakib in case FIR No. 245/2017 and murder of Munawar Hasan in FIR No. 243/2017 I.e. three counts of murder.

It is only as a matter of expedience that FIR No. 243/2017 and 245/2017 have been consolidated for the purposes of trial as it is in pursuance of a criminal conspiracy hatched between all the accused that

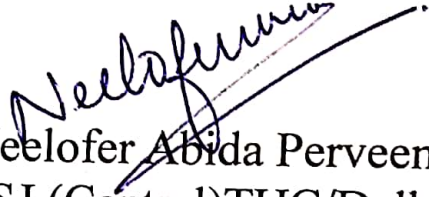
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entire family of Munawar Hasan has been wiped out. However, the fact of the matter remains that accused-applicant Deepak is accused in case FIR No. 243/2017 as well as in case FIR No. 245/2017 and is involved in three murders. It therefore cannot be said that accused-applicant is not involved in any other criminal case except case FIR No. 243/2017 as he is an accused in case FIR No. 245/2017 alleged to have murder Akib and Shakib though common trial is being held in respect of these three murders that the accused-applicant is charged with as a matter of expedience.

Accused-applicant has claimed parity with co-accused Feroz, as co-accused Feroz has been granted interim bail under the guidelines, however co accused Feroz is arraigned as an accused in the present case FIR only and not in case FIR no.245/17, that relates to the murder of the wife, two sons and two daughters of Munawar Hassan, and is alleged to have participated in the commission of murder of Munawar Hasan alone and not any of the other family members. The co-accused Sahib Khan has not been granted interim bail as per the guidelines but for the purposes of cardiac surgery of his wife who has been verified to be admitted in hospital for the purposes of surgery, there could therefore be no parity here. As the accused-applicant is not only involved in case FIR No. 243/2017 for the murder of Munawar Hasan and is also charged for commission of murder of two sons of Munawar Hasan in case FIR No. 245/2017, it is therefore not a fit case for grant of interim bail in accordance with guidelines dated 18.05.2020 issued by High Powered Committee of Hon'ble High Court as the accused-applicant Deepak is involved in two case FIRs, the present one as also FIR

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No.245/17, for the murder of Akib, Shakib and Munawar Hasan i.e. three victims. The application under Section 439 CrPC for grant of interim bail on behalf of accused Deepak in case FIR No. 243/2017 invoking guidelines issued by the High Powered Committee of Hon'ble High Court of Delhi dated 18.05.2020 is therefore dismissed.


(Neelofer Abida Perveen)
ASJ (Central)THC/Delhi
07.08.2020

**IN THE COURT OF MS. NEELOFER ABIDA PERVEEN,
SPECIAL JUDGE-02 (NDPS ACT) : (CENTRAL DISTRICT)
TIS HAZARI COURT : DELHI**

M. CrI. No.60/2020

FIR No. 115/2013

PS : Crime Branch

State Vs. Denis Jauregui Mendizabel

U/s 22 and 23 r/w Section 28 & 30 NDPS Act

In the matter of :-

State

Versus

Denis Jauregui Mendizabel

ORDER

This order shall dispose of application moved on behalf of Denis Jauregui Mendizabel for release from FRRO Camp in view of his acquittal.

1. It is submitted that the applicant was acquitted in case FIR No. 115/2013 vide judgment and order dated 21.12.2019, however, despite his acquittal for the last more than six months he is languishing in the detention camp. That the period of limitation for filing of appeal has since expired and as the prosecution has not preferred any appeal and no notice has been served upon the applicant in respect of any appeal arising out of judgment of acquittal in the said case FIR, the validity period of the bond under



Section 437A CrPC has now expired and the passport deposited alongwith the bonds and as a condition thereof may be released so that the applicant obtains valid visa / travel documents.

2. Perusal of the record reveals that the applicant -accused in case FIR NO. 115/2019 was acquitted vide judgment dated 21.12.2019 of all charges as the prosecution had failed to show due compliance of Section 50 of the NDPS Act. Though the recovery of 4 kg of ketamine from the conscious possession of the applicant was established by the prosecution, however, for non-compliance of the mandatory procedure in effecting the recovery, the applicant was acquitted of all charges. Before the pronouncement, on 16.12.2019, the applicant was directed to furnish bonds in terms of Section 437A CrPC in the sum of Rs.30,000/- with one surety. On 18.12.2019, it was submitted on behalf of the accused that the accused is foreign national and is not in a position to furnish any surety and that the passport is already lying deposited with the police and under such circumstances personal bond of the accused may be accepted under Section 437A CrPC and on 18.12.2019 taking into consideration that he is a foreign national and is not in position to furnish surety however with the condition that his passport shall remain deposited with the Court alongwith the bond, personal bond of the applicant under Section 437A CrPC was accepted.

3. Prior to the present application on 23.01.2020 also an application for appropriate orders was preferred for release of the applicant from the Detention Centre of FRRO. Report was called for at that stage and it was verified that the applicant was handed over to the FRRO Delhi vide

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order no. 5212-15(353/2019) as he is a foreign national and acquitted in case FIR NO. 115/2013 and is in Deportation Camp till travel arrangements are made as his visa has expired on 22.11.2013 and in terms of the Section 14 of the Foreigners Act no foreigner can stay in India without any valid visa. The prosecution further affirmed that on 13.01.2020 itself it had been recommended that appeal is to be preferred against acquittal order dated 21.12.2019. In the course of proceedings under the previous application when it was brought to the notice of the Ld. Counsel for the applicant that the prosecution has opined it to be a fit case for appeal and same has been recommended by the prosecution, Ld. Counsel for the applicant on 19.02.2020 had submitted that as the passport of the applicant was retained alongwith the bonds as a condition to the acceptance of the personal bond under Section 437A CrPC, as the applicant was not in a position to furnish surety alongwith the bonds in terms of Section 437A CRPC and now applicant is in a position to arrange surety, an appropriate application for modification of order dated 18.12.2020 and application for release of passport shall be preferred. On 13.03.2020 also further time was sought for furnishing of the surety bonds.

4. The present application came to be filed now on 26.6.2020, during the lockdown period. It is contended for the applicant that as the period of limitation has now lapsed for filing of a appeal against the judgment of acquittal and no appeal has been preferred by the State, and also as six months period prescribed under section 437A is over, the applicant

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stands discharged of the personal bond furnished under Section 437A CrPC and the passport deposited as a condition for acceptance of personal bond is therefore liable to be released to him.

5. Ld. Addl. PP on the other hand submitted that the State has already preferred appeal against the judgment of acquittal which was pending under objection with the Registry of the High Court, when the regular working of the Hon'ble High Court to Delhi came to be suspended vide notification dated 23.03.2020 in the wake of out break of covid-19 and that the same situation continues till date and it is for this reason that no notice in the appeal has been served upon the applicant.

6. The passport of the accused is lying deposited in the Court alongwith personal bond of the applicant furnished interms of Section 437A CrPC. Section 437A CrPC lays down as follows:-

“437A. Bail to require accused to appear before next Appellate Court_

(1) Before conclusion of the trial and before disposal of the appeal, the Court trying the offence or the Appellate Court, as the case may be, shall require the accused to execute bail bonds with sureties, to appear before the higher Court as and when such Court issues notice in respect of any appeal or petition filed against the judgement of the respective Court and such bail bonds shall be in force for six months. (2) If such accused fails to appear, the bond shall stand forfeited and the procedure under section 446 shall apply.”

7. The bonds presented under section 437A are in the manner of an undertaking to the effect that the person named in the bond shall appear before the appellate court as and when so summoned by the appellate court

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in the event that an appeal is preferred against the judgment of acquittal. The purpose for obtaining such bonds is to secure the appearance of the acquitted accused before the appellate court, so that the remedy of Appeal is not rendered ineffective or an exercise in futility only on account of the abstinence from the proceedings before the appellate court by the acquitted accused or for the sole reason that the accused after acquittal is untraceable. Taking serious note of the deliberate failure of the accused to appear before the appellate court and towards an effective implementation of the provisions H'ble the High court of Delhi in **State v. Virender Yadav & Anr.** Cr. L. P. No. 356/2012 decided by Hon'ble High Court of Delhi on 22.10.2013 has observed and directed as under:-

"6. The above provision mandates that before the conclusion of the trial and before the disposal of the appeal, the trial court or the appellate court, as the case may be, shall require the accused to execute bail bond with sureties to appear before the High Court as and when such court issues notice in respect of any appeal or petition, filed against the judgment of the respective courts and such bail bonds shall be in force for six months. Clause 2 of Section 437A Cr.P.C. deals with the consequences where the accused fails to appear before the appellate court then, it will result in forfeiture of his bond and the procedure under Section 446 Cr.P.C. shall be followed against him. Notes on Clause 40 (by which 437A was introduced) of the Bill provides the purpose of the amendment as follows:

"to provide for the Court to require accused to execute bail bonds with sureties to appear before the higher Court as and when such Court issues notice in respect of an appeal against the judgment of the respective Court"

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7. Thus the said section was introduced by the Legislature with the solemn object that till the order of acquittal passed by the learned trial court attains finality the accused is legally bound to appear before the next appellate court.

8. Once the leave to appeal is granted to the State, such appeal acquires the same status as is conferred on the accused to challenge the order of conviction and sentence in terms of Section 374 Cr.P.C. The presence of the accused even though he has been acquitted by the learned trial court is imperative before the appellate court because, if after the order of acquittal, he runs away, then he will be successful in defeating and deflecting the course of justice. After the grant of leave by the appellate court it is for the accused to contest the appeal and to support the order passed by the learned trial court. It is a settled legal position that the appeal is the continuation of the trial court proceedings and order of conviction or acquittal, if it is challenged by either the accused or the State, will become final after the decision is given by the appellate court.

9. So far as the non-appearance of the accused persons in the appeal preferred by the state challenging the order of their conviction after suspension of their sentence by the Appellant Court is concerned, a recent judgment of the Hon'ble Apex court in the case of Surya Baksh Singh vs. State of U.P reported in, 2013(12) SCALE 492, has succinctly stated the legal position. The situation which we are confronted with in the present criminal leave to appeal and in various such other leave petitions preferred by the State is that invariably in all such state appeals the State is not able to serve the respondent mainly because the respondent is not found at his last address or has shifted to some new address. After an order of acquittal is passed in favour of such an accused, whether intentionally or unintentionally, he moves out from his residence where he lastly resided. To deal with

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this malady, the legislature had introduced Section 437A Cr.P.C. on the statute book. The provision of Section 437A Cr.P.C. is not being strictly adhered to by Subordinate Judiciary dealing with the criminal matters as told to us by the learned Standing Counsel, and therefore, we feel it imperative to direct the learned Metropolitan Magistrates and the Sessions Judges, dealing with the trial of the criminal cases or exercising the Appellate powers, to strictly comply with the mandate of Section 437A Cr.P.C. and also require the accused and the surety to annex their latest passport size photographs along with their latest residential proof at the same time. Consequently, the final judgment passed by the learned Magistrates or Sessions Judges shall carry an endorsement that necessary bail bond with surety, in compliance with the order, has been furnished by the accused along with latest passport size photographs and residential proof. The strict observance to the said provision by the Magistrates and the Sessions Courts to a large extent shall prevent unscrupulous persons from absconding to defeat the course of justice."

8. Adverting to the application at hand, following the judgement of acquittal the prosecution had rendered the case fit for appeal and as per intimation received from the Director (Prosecution), appeal in the aforesaid matter has been filed with the Registry of Hon'ble High Court of Delhi on 05.03.2020 vide diary no. 358192 which is pending with the Registry of the Hon'ble High Court of Delhi for removal of some defects and due to the closure of the High Court on account of the current pandemic since 17.03.2020, the defects could not be removed. Following the outbreak of Covid -19 vide notification dated 23.3.2020 having considered the steps already taken to combat the impending threat of coronavirus(2019-nCOV),

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and considering the prevalent situation and particularly in view of the lockdown declared by the Government in the National Capital Territory of Delhi upto 31.3.2020 in supersession of the earlier notifications in accordance with the resolution in this regard of the Administrative and Supervision Committee of the H'ble High Court of Delhi the functioning of the High Court of Delhi as well as the Courts subordinate thereto was ordered to remain suspended initially till 4.4.2020 which suspension has further continued till date under notifications issued from time to time.

Furthermore, also in the wake of the outbreak of the pandemic, H'ble the Supreme Court of India in *SUO MOTO WRIT PETITION 3 OF 2020, IN RE COGNIZANCE FOR EXTENSION OF LIMITATION* vide order passed on 23.3.2020 invoking the powers vested under Articles 142 and 141 of the Constitution has extended the period of limitation of all proceedings at all Courts/Tribunals across the country.

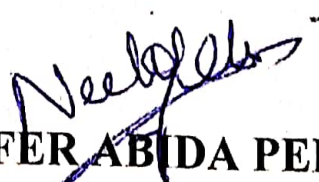
9. The personal bond in terms of section 437 A CrPC of the applicant is conditionally accepted upon his acquittal subject to the deposit of passport in the court on 18.12.2020 as the accused was unable to furnish surety. As per the statute the bond remains in force for a period of 6 months and the six months period has now lapsed. The applicant has not been served with the process in the appeal which has been instituted by the State by filing the same in the Registry of the Hon'ble High Court of Delhi, as the regular working of the Court remains suspended and the Registry of the Hon'ble High Court is not accepting and processing files physically though e-fillings and virtual hearings are in place.



Though the bonds are executed for a period of six months but it is the non appearance of the accused before the Appellate Court that leads to forfeiture of the bond furnished in terms of section 437A Cr. PC. The sole purpose behind securing such bonds from an acquitted accused is to secure the presence of the accused after acquittal before the Appellate Court so that the right of appeal is not frustrated for want of appearance of the accused. The state has preferred the appeal but the same has not been listed for hearing and notice has not been served upon the accused during the period of six months that the bond is stipulated to remain in force not due to any lapse on the part of the appellant state but due to the intervening unforeseen circumstances arising out of the national lockdown, and as in pursuance to notification the regular working of the Hon'ble High Court came to be suspended. Under such circumstances therefore in my humble view in the prevailing situation arising out of the lockdown despite the lapse of the period of six months as the appeal has already been preferred by the state, the bonds furnished in terms of section 437 A shall subsist for all intents and purposes. The applicant is at liberty to furnish surety so that the order of deposit of passport is modified in order to enable the applicant to obtain appropriate travel documents.

The application is disposed of accordingly.

Announced
on this 06th day of August, 2020


(NEELOFER ABIDA PERVEEN)
SPECIAL JUDGE-02 (NDPS ACT)
(CENTRAL DISTRICT)
TIS HAZARI COURT:DELHI