

Crl. Appeal No.: 77/19

Rajender Kumar v. M/s. Ajay Industrial Corporation Pvt. Ltd.

08.07.2020

File taken up today in terms of order No. Endst. No. 1734-66/DHC/2020 dated 27.06.2020.

**Present:** None for parties.

*This court is also discharging emergency Roster bail duty since 20.05.2020 and on an average hearing 15-20 matters through VC.*

This case is pending at the stage of final arguments. As such, same is proposed to be taken up today for hearing.

It is submitted by Reader of this court that counsel for Appellant Sh. Rajender Kumar could not be contacted on his mobile no. 8800543936 and mobile no. 9868546437 of Sh Navneet Sharma was found switched off.

As such, matter could not be proceeded further on merits.

Parties are directed to download Webex and get familiar with the same by NDOH so that hearing can be held through Webex/electronic mode.

Issue notice to counsels for parties through electronic mode/e-mail/other information of the counsel available on record.

Notice be issued within one week.

**Put up for purpose already fixed arguments on**  
21.08.2020.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/08.07.2020**

FIR NO: 214/2015  
PS: Civil Lines  
State v. Subhash Rai & anr.

08.07.2020

File taken up today in terms of order No. Endst. No. 1734-66/DHC/2020 dated 27.06.2020.

**Present:** Sh. Pawan Kumar, Ld. Addl. PP for the State through VC.  
Sh. Yatender Kumar, Ld. counsel for both accused (Mobile no.9212715124).

Both the accused are stated to be on bail but not present today.

*This court is also discharging emergency Roster bail duty since 20.05.2020 and on an average hearing 15-20 matters through VC.*

This case is pending at the stage of final arguments. As such, same is proposed to be taken up today for hearing.

As per the report of Reader of this court when contacted through electronic mode/mobile phones, it is submitted by counsel for accused that he is out of Delhi and seeks some time for further final arguments.

Heard. Allowed.

As such, matter could not be proceeded further on merits. In the interest of justice, put up the matter for final arguments on 06.08.2020.

Parties are directed to download Webex and get familiar with the same by NDOH so that hearing can be held through Webex/electronic mode.

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
08.07.2020

**Crl. Revision: 659/2019**  
**Ivan Jain v. Shweta & Ors.**

08.07.2020

File taken up today in terms of order No. Endst. No. 1734-66/DHC/2020 dated 27.06.2020.

**Present: None for complainant/Revisionist.**

Ms. Rashmi Sharma, Ld. counsel for Respondent no.1 to 4(Mobile no.9953721543).

Sh. Pawan Kumar, Ld. Addl. PP for the State/Respondent no.5 through VC.

*This court is also discharging emergency Roster bail duty since 20.05.2020 and on an average hearing 15-20 matters through VC.*

This case is pending at the stage of final arguments. As such, same is proposed to be taken up today for hearing.

As per the report of Reader of this court when contacted through electronic mode/mobile phone, Sh. Naveen Sharma, counsel for revisionist/complainant could not be contacted.

Ms. Rashmi Sharma, counsel for Respondent no.1 to 4 submits through VC that she is not ready with arguments as her file is lying in her chamber. It is further stated that she has not download Webex as yet.

Heard. Allowed.

As such, matter could not be proceeded further on merits. In the interest of justice, put up the matter for final arguments on 08.09.2020.

Parties are directed to download Webex and get familiar with the same by NDOH so that hearing can be held through Webex/electronic mode.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/THC**  
**08.07.2020**

FIR NO: 293/2017  
PS: Kotwali  
State v. Faizan

08.07.2020

File taken up today in terms of order No. Endst. No. 1734-66/DHC/2020 dated 27.06.2020.

**Present:** Sh. Pawan Kumar, L.d. Addl. PP for the State through VC.

*This court is also discharging emergency Roster bail duty since 20.05.2020 and on an average hearing 15-20 matters through VC.*

This case is pending at the stage of final arguments. As such, same is proposed to be taken up today for hearing.

As per report of Reader of this court, counsel for accused Sh. Maqsood Hussain (Mobile no. 8285910169) could not be contacted.

As such, matter could not be proceeded further on merits.

Let issue court notice through electronic mode to such counsel for next date of hearing.

Further, accused be produced from jail through VC on next next date of hearing.

Parties are directed to download Webex and get familiar with the same by NDOH so that hearing can be held through Webex/electronic mode.

**Put up for further final arguments on 14.08.2020.**

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
08.07.2020



**Crl. Appeal No.: 54821/16**  
**M/s. Tricolite Engineering Pvt. Ltd. & Anr.**  
**v.**  
**M/s. Pipeline Products Ltd.**

**08.07.2020**

**File taken up today in terms of order No. Endst. No. 1734-66/DHC/2020 dated 27.06.2020.**

**Present:** Sh. Mahesh Katyayen (Mobile no. 9810133604),  
counsel for Respondent.

*This court is also discharging emergency Roster bail duty since 20.05.2020 and on an average hearing 15-20 matters through VC.*

This case is pending at the stage of final arguments. As such, same is proposed to be taken up today for hearing.

It is submitted by Reader of this court that when he contacted on mobile no. 9810466554 of Sh. Rohit Arora, it is found that this number belongs to some Sh. Ajay Kumar Pipaniya and this person is not aware about the present case.

Further, on contact to counsel for Respondent Sh. Mahesh Katyayen on his mobile, it is submitted by counsel for respondent that he will argue once the arguments on behalf of Appellant is complete.

As such, matter could not be proceeded further on merits.

Parties are directed to download Webex and get familiar with the same by NDOH so that hearing can be held through Webex/electronic mode.

Issue notice to counsel for Appellant Sh. Rohit Arora through electronic mode/e-mail/other information of the

counsel available on record.

Notice be issued within one week.

**Put up for purpose already fixed/arguments on  
08.09.2020.**

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
08.07.2020

## **BAIL APPLICATION**

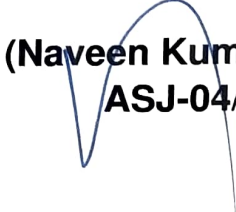
**FIR No. :329/2017**  
**PS: Subzi Mandi**  
**STATE v. Salman @ Guru**  
**U/S: 392, 394, 397, 34 IPC**

**08.07.2020.**

Present: Sh. Pawan Kumar, Addl. PP for the State through VC.  
Mr. Sandeep Yadav, learned counsel for accused through VC.

Fresh application seeking regular bail on behalf of applicant / accused through counsel is filed.

Put up for reply from the IO, arguments and appropriate order alongwith case file for **14/07/2020**.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/THC**  
**08.07.2020**

**BAIL APPLICATION**

**FIR No. : 236/2019**

**PS: Subzi Mandi**

**STATE v. Rakesh s/o Shankar Lal**

**U/S: 308, 34 IPC**

**08.07.2020.**

Present: Sh. Pawan Kumar, Addl. PP for the State through  
VC.  
Mr. Shivendra Singh, learned counsel for accused  
through VC.

Fresh application seeking regular bail on behalf of  
applicant / accused through counsel is filed.

Put up for reply from the IO, arguments and  
appropriate order alongwith case file for **14/07/2020**.

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
08.07.2020

**BAIL APPLICATION**

**FIR No. :303/2014**

**PS: Subzi Mandi**

**STATE v. Deepesh @ Deepu s/o Rakesh**

**U/S: 302, 307, 34 IPC & 25, 27, 54, 59 Arms Act**

**08.07.2020.**

Present: Sh. Pawan Kumar, Addl. PP for the State through VC.

Mr. Diwanshu Sehgal, learned counsel for applicant / accused through VC.

Fresh application seeking interim bail on behalf of applicant / accused through counsel is filed.

Put up for reply from the IO, arguments and appropriate order alongwith case file for **14/07/2020**.

**(Naveen Kumar Kashyap)**

**ASJ-04/Central/THC**

**08.07.2020**



**BAIL APPLICATION**

**FIR No. :524/2014**

**PS: Burari**

**STATE v. Vikash Kaushik @ Sunny**

**U/S: 364, 302, 201, 120B, 34 IPC & 25, 27, 54, 59 Arms Act.**


**08.07.2020.**

Present: Sh. Pawan Kumar, Addl. PP for the State through VC.  
Mr. Mukesh Kumar Sharma, learned counsel for applicant / accused through VC.

An application seeking early hearing of the pending bail on behalf of applicant / accused through counsel filed.

Put up for arguments on the pending application with case file for **14/07/2020**.

Further issue notice to IO to appear through VC / electronic mode for the next date of hearing.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/THC**  
**08.07.2020**

**BAIL APPLICATION**

**FIR No. :339/2016**

**PS: Darya Ganj**

**STATE v. Kishan Kumar**

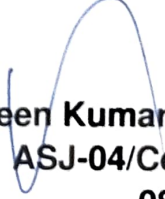
**U/S: 395, 397, 412, 201, 120B, 34 IPC & 25, 27, 54, 59 Arms  
Act**

**08.07.2020.**

Present: Sh. Pawan Kumar, Addl. PP for the State through  
VC.  
Mr. Himanshu Saxena, learned counsel for  
applicant / accused.

Fresh application seeking interim bail on behalf of  
applicant / accused through counsel is filed.

Put up for reply from the IO, arguments and  
appropriate order alongwith case file for **13/07/2020**.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/THC**  
**08.07.2020**

**BAIL APPLICATION**

**State V. Kalu @ Ajay Rajput**  
**FIR No. 31/2017**  
**PS.: Delhi Cantt Railway Station**  
**U.S: 302,201, 34 IPC**

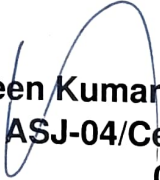
**08.07.2020**

**Present:** Mr. Pawan Kumar, Learned Addl. PP for State  
through VC.  
Mr. Neel Gulia, learned counsel for accused  
through VC.

Reply filed by IO.

Part arguments in detail heard.

Put up for further arguments including about the last  
regular bail application moved by this accused, if any and order  
thereon, with file on **14.07.2020**.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/THC**  
**08.07.2020**

**BAIL APPLICATION**

**FIR No. : 130/2014**

**PS: Kamla Market**

**STATE v. Vasudev Prasad s/o Mr. Gaya Prasad**

**U/S: 419, 420, 365, 392, 395, 412, 120B, 34 IPC**

**08.07.2020.**

Present: Sh. Pawan Kumar, Addl. PP for the State through VC.  
Mr. Rajab Bhatia, learned counsel for applicant through VC.

Report regarding medical documents filed by the IO dated 08/07/2020. But learned counsel for the applicant / accused seeks adjournment on the ground that applicant / accused has undergone test for Covid-19 and the result is awaited.

Put up for arguments and appropriate order for  
**14/07/2020.**

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
08.07.2020

**BAIL APPLICATION**

**FIR No. :31/2017**

**PS: DCRS**

**STATE v. Karan @ Twinkle @ Hukum Singh**

**U/S: 302, 201, 34 IPC**

**08.07.2020.**

Present: Sh. Pawan Kumar, Addl. PP for the State through VC.  
Mr. J.S Mishra, learned LAC for applicant / accused through VC.

In terms of order dated 04/07/2020, medical documents preferably in electronic form be supplied by the applicant / accused on the e-mail i.e. [asj04.central@gmail.com](mailto:asj04.central@gmail.com) ([ASJ04.CENTRAL@GMAIL.COM](mailto:ASJ04.CENTRAL@GMAIL.COM)) within 2 days.

IO is directed to verify such medical documents, illness of the father of the applicant.

Put up for further report from the IO including illness of father of applicant for **13/07/2020**.

**(Naveen Kumar Kashyap)**

**ASJ-04/Central/THC**

**08.07.2020**



**BAIL APPLICATION**

**FIR No. :22/2018  
PS: Kamla Market  
STATE v. Radha D/o Madan Lal  
U/S: 302 IPC**

**08.07.2020.**

Present: Sh. Pawan Kumar, Addl. PP for the State through VC.  
Mr. S.K. Jain, learned counsel for applicant / accused through VC.

Learned counsel for the accused has stated that as far as the present application is concerned the same is based on the criteria fixed by the Hon'ble High court in its minutes of meeting dated 18/05/2020.

Report regarding custody warrant and conduct of applicant / accused from concerned Jail Superintendent is filed. As per which, conduct of applicant is not good as applicant was involved in Jail riots on 28/03/2020 and there is another punishment for such accused in January 2019 also.

As such, this case does not fall under the relaxed criteria as fixed by the Hon'ble High Court of Delhi vide in its minutes of meeting dated 18/05/2020, hence dismissed.

With these observations, present application is disposed of accordingly. Copy of order can be obtained dasti or through electronic mode. Further copy of this order be sent to Jail Superintendent concerned.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/THC**  
**08.07.2020**

**BAIL APPLICATION**

**FIR No. : 655/2016**  
**PS: Sarai Rohilla**  
**STATE v. Saleem s/o Mukim**  
**U/S: 394, 397, 302, 34 IPC**

**08.07.2020.**

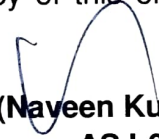
Present: Sh. Pawan Kumar, Addl. PP for the State through VC.  
Mr. Zia Afroz, learned counsel for applicant / accused through VC.

Learned counsel for the accused has stated that as far as the present application is concerned the same is based on the criteria fixed by the Hon'ble High court in its minutes of meeting dated 18/05/2020.

Report regarding custody warrant and conduct of applicant / accused from concerned Jail Superintendent is filed. As per which, conduct of applicant is not good.

As such, this case does not fall under the relaxed criteria as fixed by the Hon'ble High Court of Delhi vide in its minutes of meeting dated 18/05/2020, hence dismissed.

With these observations, present application is disposed of accordingly. Copy of order can be obtained dasti or through electronic mode. Further copy of this order be sent to Jail Superintendent concerned.

  
**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/THC**  
**08.07.2020**

BAIL APPLICATION

State V. Sanjay Tiwari & Ors. (Amar Tiwari)  
FIR No. 478/2018  
PS.: Burari  
U.S: 452,306,506,324,427,34 IPC

08.07.2020

**Present:** Mr. Pawan Kumar, Learned Addl. PP for State through VC.  
Mr. Avdhesh Kumar, learned counsel for accused through VC.

Arguments already heard from State as well as accused side.

Be awaited for complainant

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
08.07.2020

2.45 pm

**Present:** Mr. Pawan Kumar, Learned Addl. PP for State through VC.  
Father of deceased Sh. Daya Shanker through VC.

Heard.

Father of deceased has opposed the present bail application. He further stated that such accused is on interim bail and he has intimidating attitude towards the complainant side as and when he met in the area where accused and complainant are living. As such, he has opposed the present bail application.

**Put up for clarifications, if any/orders on 14.07.2020.**

(Naveen Kumar Kashyap)  
ASJ-04/Central/08.07.2020

## BAIL APPLICATION

**FIR No. : 83/2020**

**PS: Kashmere Gate**

**STATE v. Anil Kumar s/o Manik Chand**

**U/S: 147, 149, 188, 186, 353, 436, 269, 270, 34 IPC**

**08.07.2020.**

Present: Sh. Pawan Kumar, Addl. PP for the State through VC.  
Mr. S.K. Sharma, learned counsel for the accused through VC.

Vide this order second regular bail application u/s 439 Cr.PC filed by the present accused is disposed of.

In nutshell, it is stated in such application that he is falsely implicated in this case; that in search of work as *Beldar* he came to Delhi to work; that he did not play any role in the present case; that investigation is already complete and now the chargesheet is already filed but the copy of the same is not supplied to him. As such, he is no more required for investigation in the present case. It is further stated that he is a permanent resident of District Aligarh UP and copy of his Aadhaar Card is enclosed with the present application. As such, it is prayed that he be granted regular bail.

On the other hand, it stated by the learned Addl.PP that offence is very serious in nature; that his earlier regular bail was rejected recently by this court only on 16/06/2020; it is further stated there is no material change in circumstances since rejection of previous bail except that now chargesheet is filed.

*Contd...../-*

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FIR No. : 83/2020  
PS: Kashmere Gate  
STATE v. Anil Kumar s/o Manik Chand  
U/S: 147, 149, 188, 186, 353, 436, 269, 270, 34 IPC

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

This court find force in the arguments of learned Addl.PP for the state. There is no material change in the circumstances except that now chargesheet is filed. But earlier also while rejecting bail application on 16/06/2020 it was observed that present offence includes 436 IPC which is punishable for imprisonment upto life and serious in nature. Further the nature and the manner in which the offence is committed is very serious as already observed. Under these circumstances, this court is not inclined to grant regular bail to the present accused at this stage.

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
08.07.2020



: 1 :

## INTERIM BAIL APPLICATION

**State Vs. Adnan Hussain s/o Inayat Hussain**

**FIR No.: 02/2014**

**PS: Jama Masjid**

**U/S: 302, 394, 411, 34 IPC**

**08.07.2020.**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State  
through VC.  
Mr. Asgar Khan, learned LAC counsel for  
Accused through VC.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020 and 18.05.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority, present application is taken up.*

2. Vide this order bail application u/s 439 Cr.PC dated 04/07/2020 is taken. As per the prayer clause the accused has sought regular bail or in the alternative further extension of interim bail, but during hearing, it is clarified by learned counsel for the accused that in the meanwhile period of interim bail already expired and the accused has already surrendered before the jail authority before such matter could be filed. As such, it is now prayed that present application be treated as fresh

State Vs. Adnan Hussain s/o Inayat Hussain

FIR No.: 02/2014

PS: Jama Masjid

U/S: 302, 394, 411, 34 IPC

application for Interim bail only.

3. Reply filed by the IO. Further additional documents application is also filed by the present applicant / accused with some orders passed by other learned Sessions Court regarding interim bail.

4. Arguments heard.

5. It is argued on behalf of the accused that his conduct inside the jail is satisfactory as is reflected even in <sup>v</sup>the ordersheet dated 23/05/2020 vide which he was granted interim bail for 45 days by the court of learned ASJ-02, Central District. It is further stated that as far as involvement in the another matter FIR No.131/13 PS Kashmir Gate Metro Station is concerned, he is already acquitted in the same. It is further argued that some other learned ASJ court has granted interim bail in other district despite there being involvement in other matters and copy of such order is placed on record. It is further submitted that there is issue of overcrowding of prisoners and there is pandemic situation at present due to corona virus. It is further stated that such accused was granted interim bail earlier also in 2017 to 2019 on many occasions and he timely surrendered thereafter. As such, it is prayed that he be granted interim bail for 45 days.

6. On the other hand, it is argued by the learned Addl.PP for the State that no ground is made out to grant him interim bail again. That in any case he does not fall in the

Original documents  
read with

: 3 :

criteria of 18/05/2020 passed by Hon'ble High Court as there is involvement in another matter and whether he was acquitted later or not is not relevant as far as criteria dated 18/05/2020 is concerned. It is further stated that on merit also no case is made out for grant of interim bail again.

7. On a reading of previous interim bail order dated 23/05/2020 passed by Learned ASJ-Central as well as interim bail order passed by some other learned ASJ / bail Duty judges of other districts, it is clear that such orders were not passed only on criteria of Hon'ble High Court dated 18/05/2020 but rather on the facts and circumstances and on merit of the case. In any case the same could not have been given on criteria as one of the condition is 'there is no involvement' of the accused in other criminal matters. As such, in the considered view of this court, case of the present applicant is not covered in the relaxed interim bail criteria of hon'ble High Court. Accordingly, interim bail cannot be granted to such accused based on such interim bail criteria by the Hon'ble High Court.

8. But, it is also directed by the Hon'ble High Court that even otherwise interim bail is to be heard and disposed of on merit. But on merit also this court finds that the accused is already granted interim bail for 45 days. No further leniency is required in the considered view of this court. As such, having regard to the nature of the case and he has already given opportunity recently to avail interim bail for 45 days, this court

: 4 :

is not to grant another interim bail for 45 days. **With these observations, present application is dismissed.**

9. The present application stands disposed off accordingly. Both side are at liberty to collect the order dasti or through electronic mode. Further copy of this order be sent to Jail Superintendent concerned.

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
08.07.2020

BAIL APPLICATION

FIR No. : 02/2014

PS: Kamla Market

State v Yogesh Kashyap s/o Nand Ram Kashyap

U/S: 302, 34 IPC

**08.07.2020.**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.

Mr. Sunil Kumar, learned LAC for applicant / accused through VC.

1. *Directions are given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 ,Revised Advisory Protocol dated 30.03.2020 by Ld. District & Sessions Judge (HQ) read with other directions from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020 and also 20.06.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority. Accordingly , present application is taken up.*

2. As per minutes of meeting dated 18.05.2020 of Hon'ble High Court, interim bail application as per the criteria given by Hon'ble HC in above mentioned minutes , such application is to be moved by Ld. Legal Aid Counsel *alongwith* copy of custody warrant. Perusal of the record reflects that such application is duly accompanied by copy of custody warrant as well as character certificate issued by the concerned Jail Superintendent.

3. **As per minutes of meeting dated 18.05.2020 of**

FIR No. : 02/2014

PS: Kamla Market

State v Yogesh Kashyap s/o Nand Ram Kashyap

U/S: 302, 34 IPC



**Hon'ble High Court**, IO / SHO concerned to file reply, including on the following aspect apart from any other point which IO wants to raise:-

(i) Report about Previous **conviction**, if any, of present accused/Applicant

(ii) Further, (in view of direction by Hon'ble HC ) ,a report that present accused is **not involved**, in any other case;

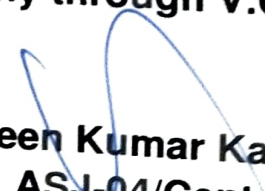
(iii) Date, since when accused is in JC in present case

(iv) What are **all** the Offences under IPC or other law, which are alleged against present accused in present case .

4. As such, issue notice of present application to the IO/ SHO concerned.

5. **Counsel for accused is advised to collect the order online through electronic mode or otherwise dasti as requested.**

6. **Put up for report, arguments and further appropriate orders on 14/07/2020, preferably through V.C.**

  
(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
Central District  
08.07.2020

## BAIL APPLICATION

FIR No. : 327/2016

PS: Roop Nagar

State v Ram Nawal s/o Ram Naresh

U/S: 302 IPC

**08.07.2020.**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through  
VC.

Mr. Sunil Kumar, learned LAC for applicant / accused  
through VC.

1. *Directions are given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020, Revised Advisory Protocol dated 30.03.2020 by Ld. District & Sessions Judge (HQ) read with other directions from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020 and also 20.06.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority. Accordingly, present application is taken up.*

2. As per minutes of meeting dated 18.05.2020 of Hon'ble High Court, interim bail application as per the criteria given by Hon'ble HC in above mentioned minutes, such application is to be moved by Ld. Legal Aid Counsel *alongwith* copy of custody warrant. Perusal of the record reflects that such application is duly accompanied by copy of custody warrant as well as character certificate issued by the concerned Jail Superintendent.

3. **As per minutes of meeting dated 18.05.2020 of**

FIR No. : 327/2016

PS: Roop Nagar

State v Ram Nawal s/o Ram Naresh

U/S: 302 IPC

**Hon'ble High Court, IO / SHO** concerned to file reply, including on the following aspect apart from any other point which IO wants to raise:-

- (i) Report about **Previous conviction**, if any, of present accused/Applicant
- (ii) Further, (in view of direction by Hon'ble HC ) , a report that present accused is **not involved**, in any other case;
- (iii) Date, since when accused is in JC in present case
- (iv) What are **all** the Offences under IPC or other law, which are alleged against present accused in present case .
4. As such, issue notice of present application to the IO/ SHO concerned.
5. **Counsel for accused is advised to collect the order online through electronic mode or otherwise dasti as requested.**
6. **Put up for report, arguments and further appropriate orders on 14/07/2020, preferably through V.C.**

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
Central District  
08.07.2020

**BAIL APPLICATION**

**FIR No. :185/2019  
PS: Jama Masjid  
STATE v. Tanveer Ahmed  
U/S: 308, 324, 506, 34 IPC**

**08.07.2020.**

Present: Sh. Pawan Kumar, Addl. PP for the State through  
VC.

It is reported by Reader / staff that despite making efforts since morning to contact learned counsel for the accused for joining in electronic hearing through webex, but he is not able to reach such learned counsel for the accused.

Heard.

As such, the case is adjourned for further appropriate proceedings, appearance for **15/07/2020**.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/THC**  
**08.07.2020**

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**INTERIM BAIL APPLICATION**

**State Vs. Ram Gopal s/o Mukhiya Rai**  
**FIR No. : 97/2012**  
**PS: Prasad Nagar**  
**U/S: 302, 301, 120B, 419, 420, 471 IPC**

**08.07.2020.**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State  
through VC  
Mr. Punit Jaiswal, Ld. Counsel for Accused  
through VC.  
Further, LAC counsel Mr. Sunil Kumar on behalf  
of the same accused from DLSA.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020 and 20.06.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority, present application is taken up.*

2. By this order bail application dated 29/06/2020 filed by the present accused through private counsel is disposed of. It may be noted that in the meanwhile another application by the same accused through Jail Superintendent concerned / DLSA also received and same is tagged with this earlier application as such and both are disposed of by this order.

3. Further reply filed by the IO regarding previous

State Vs. Ram Gopal s/o Mukhiya Rai  
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U/S: 302, 301, 120B, 419, 420, 471 IPC



involvement record. As per such reply no previous involvement found as per record.

4. Arguments heard.

5. It is stated that accused is in JC since for more than **two years** (which fact is now even verified by IO in his report).

6. Further, a report regarding **satisfactory / good conduct** of the accused is also filed by Jail Superintendent Concerned. As per report, his conduct is satisfactory.

7. Further, a report is filed by IO/SHO concerned. It is further stated that there is no previous conviction / involvement record of such accused. **Further, it is stated that offences alleged against accused is, inter-alia, under section 302 IPC.**

8. In view of report by jail supdt concerned , reply given by IO and direction by Hon'ble High Court of Delhi, case of the accused is covered under directions as passed by Hon'ble High Court, as mentioned above. Further, accused is in JC since more than **two years** at present.

As such, in the above position, facts and circumstances of present case and the directions by Hon'ble High Court, applicant/accused is admitted to interim bail for a period of 45 days from the date of release on furnishing personal bond **in the sum of Rs. 10,000/- to the satisfaction of the Jail Superintendent concerned.** After completion of the interim bail period applicant shall surrender before concerned Jail Superintendent. Necessary intimation be sent to concerned Jail Superintendent accordingly.

**8.1. In the facts and circumstances of present case and the reply filed by the IO/SHO**



**following conditions are also imposed on present accused for such interim bail :**

- 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/her mobile number to the IO;
- vii)** Applicant shall mark his /her 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;
- 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.
- ix)** Applicant shall keep his / her such mobile number 'Switched On' at all the time , particularly between 8 am to 8 pm everyday.

**9.** The present application stands disposed off accordingly. Both side are at liberty to collect the order dasti or through electronic mode.

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/THC**  
**Central District/08.07.2020**

## **Bail Application**

**State Vs. Raman Kumar s/o Pawan Kumar**

**FIR No. : 147/2020**

**PS: Pahar Ganj**

**U/S: 326 IPC**

**08.07.2020**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC  
Mr. Ashwani Gaur, learned Counsel from for Accused through VC.

1. This order is further to order dated 04/07/2020 on the regular bail application of the present accused. As such, order already passed on 04/07/2020 be read as part and parcel of this order.
2. Further reply / clarification given by SI Rajpal Singh. In such reply, he reaffirm that the documents regarding dog bites to the father of the accused are found correct including that he was treated at RML hospital.
3. Further arguments heard today.
4. The submissions of both sides are already noted in order dated 04/07/2020.
5. 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. Further, investigation still

State Vs. Raman Kumar s/o Pawan Kumar  
FIR No. : 147/2020  
PS: Pahar Ganj  
U/S: 326 IPC

on and at initial stage. Further, injury is grievous in nature. Further, whether accused is covered under exception of 335 IPC is a matter of trial. As such, this court is not inclined to grant regular bail to accused at this stage.

6. With these observation present application is disposed of.

7. But before parting, it may be noted that the manner in which IO / SHO concerned has acted so far does not appear fair. In initial reply earlier filed by such ASI Raj Kumar, he just mentioned version of the complainant side and nothing regarding the accused side. At this stage, it must be remembered that purpose of investigation is impartial. That is the IO is supposed to collect all material evidence whether it goes in favour or against the accused and not that which goes only against the accused. The defence of the accused side is that because of the fault of the complainant, the dog in question bit the father of the accused and as such in sudden anger he attacked the dog but inadvertently, it hit the victim / complainant resulting into present case. But report filed in court by IO initially was totally silent on this aspect. The same prima facie shows

biasness of the IO or otherwise it appears that such IO needs to

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be sensitized about the basic role of the State through police in criminal justice system i.e. a fair, impartial investigation and that all evidence is to be collected whether it goes in favour of against the accused. As such, such IO is warned to be careful in future.

8. **Further, a copy of this order be sent to DCP concerned for his information only through prosecution. Learned counsel for the applicant / accused is at liberty to collect the order dasti or through electronic mode. Copy of order be also given dasti to IO / SHO concerned.**

  
**(Naveen Kumar Kashyap)**  
**Additional Sessions Judge-04**  
**Central/THC/Delhi**  
**08/07/2020**

Interim Bail Application

State v. Krishan S/o Late Prakash

FIR No. 48/2015

PS.: Nabi Karim

U/s: 186,332,353,307,34 IPC & 25,27 Arms Act

08.07.2020.

**Present: Mr. Pawan Kumar Learned Addl. PP for State through VC.  
Mr. Sunil Kumar, learned LAC, on behalf of DLSA for the applicant/accused through V.C.**

1. Vide this order present interim bail application of the accused received through Jail Superintendent concerned through DLSA for grant of interim bail on merit is disposed off.

2. It is stated in such application that Accused is in JC since 15.03.2015. That he is falsely implicated in the present case. That his father expired in the year 2012. That his mother is 80 years old. That there is nobody to look after her. That he belongs to a Economically weaker family. It is further stated that Hon'ble High court and Supreme Court has passed certain directions regarding relaxed criteria of interim bail in view of present pandemic condition. It is further stated that such applicant is not covered in criteria laid down by HPC. As such, it is prayed that he be granted bail.

3. Reply filed by IO dated 07.07.2020. Further, on the same line, it is argued by learned APP that present offence is very serious in nature. That this accused is involved in serious offence including attempt to kill police officer while on duty investigation some matter. It is further stated that there is one



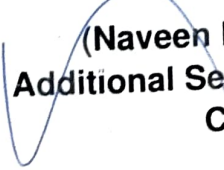
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Mrs. Bina and other female family member are taking care of mother of the accused. Further, a co-accused Ajay@ Nathu, brother of the present applicant is recently granted bail in the present case only and is present in the house . It is further stated that such accused is found in ten other criminal cases. It is further stated that on 30.05.2020, his interim bail was rejected by learned Bail duty judge.

4. I have heard both the sides and gone through the record. The ground stated by accused are not sufficient and vague in nature. Further, offence, is serious in nature and the present accused played a specific role in the same. Further, there are other family member to take care of the old mother. As such, this court is not inclined to grant relief claimed in the present case. **With these observations present bail**

**application is disposed of as dismissed.**

5. **Learned counsel for the applicant / accused is at liberty to collect the order dasti or through electronic mode. Copy of order be uploaded on the website. Further, a copy of this order be sent to Jail Superintendent concerned. Further, a copy of this order be sent to IO/SHO concerned.**

  
(Naveen Kumar Kashyap)  
Additional Sessions Judge-04  
Central/THC/Delhi  
08.07.2020.



## Bail Application

State Vs Mintoo @ Hosiyar  
FIR No. 109/2020  
PS.: Nabi Karim  
U/s: 380, 457, 120B, 34 IPC

08.07.2020

**Present:** Mr. Pawan Kumar, Learned Addl. PP for State through VC.  
Mr. P.K. Garg, learned counsel for accused in person.

Copy of chargesheet was summoned and the same is received.

Vide this order, the bail application under section 439 Cr.P.C. on behalf of accused dated 04/07/2020 filed through counsel is disposed of.

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

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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, it is argued that now the chargesheet is already filed that is investigation is already complete. Accused is permanent resident of Delhi, co-accused Sunita, his son Chanchal and Ashwani @ Kale is on bail. Nothing is recovered from the accused except the planted case property.

On the other hand, it is argued by the learned Addl.PP for the stated as also replied by the IO, that offence is serious in nature; that part of cash / case property was recovered from the accused. Earlier bail application is dismissed by duty MM; that he has 5-6 other criminal involvement of similar nature.

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

Certain clarification is required regarding the claim of bail granted to co-accused, as mentioned in para 5 of such

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application. As such, put up for further reply, / copy of such bail order from the IO. Further applicant is also at liberty to file the same. Further, put up for arguments and appropriate order for **10/07/2020**. Copy of chargesheet be sent back to the concerned court.

**(Naveen Kumar Kashyap)**  
**Additional Sessions Judge-04**  
**Central/THC/Delhi**  
**08/07/2020.**



: 1 :

**INTERIM BAIL APPLICATION**

**State Vs. Raja@Rajvir@Sunder Singh**

**FIR No. : 416/2017**

**PS: Burari**

**U/S: 302 IPC**

**08.07.2020.**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State  
through VC  
Mr.S.K. Jain, Ld. Counsel for Accused  
through VC.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020 and 20.06.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority, present application is taken up.*

2. Reply filed by the IO as well as Jail Superintendent concerned.

3. Arguments heard.

4. Present application dated 25.06.2020 is filed through counsel. It is stated that accused is in JC since for more than **two years** (which fact is now even verified by IO in his report).

5. Further, a report regarding satisfactory / good

conduct of the accused is also filed by Jail Superintendent Concerned. As per such report, conduct of the accused is satisfactory during his custody in jail.

6. Further, a report is filed by IO/SHO concerned. It is further stated that there is no previous conviction / involvement record of such accused. **Further, it is stated that offences alleged against accused is, under section 302, 396, 411, 34 IPC.**

7. In view of report by jail supdt concerned , reply given by IO and direction by Hon'ble High Court of Delhi, case of the accused is covered under directions as passed by Hon'ble High Court, as mentioned above. Further, accused is in JC since more than **two years** at present.

As such, in the above position, facts and circumstances of present case and the directions by Hon'ble High Court, applicant/accused is admitted to interim bail for a period of 45 days from the date of release on furnishing personal bond **in the sum of Rs. 10,000/- to the satisfaction of the Jail Superintendent concerned.** After completion of the interim bail period applicant shall surrender before concerned Jail Superintendent. Necessary intimation be sent to concerned Jail Superintendent accordingly.

**7.1. In the facts and circumstances of present case and the reply filed by the IO/SHO following conditions are also imposed on present accused for such interim bail :**

- 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/her mobile number to the IO;*

*vii) Applicant shall mark his /her 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;*

*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.*

*ix) Applicant shall keep his / her such mobile number 'Switched On' at all the time , particularly between 8 am to 8 pm everyday.*

8. The present application stands disposed off accordingly. Both side are at liberty to collect the order dasti or through electronic mode.

9. **Copy of this order be sent to Jail Superintendent concerned.**

(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
Central District/08.07.2020

: 1 :

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

**State Vs Mohd. Salman s/o Mohd. Basir Ansari**  
**FIR No. 75/2020**  
**P. S. Kotwali**  
**U/s: 392, 411, 34 IPC**

**08/07/2020**

Present: Mr. Pawan Kumar, Learned Addl. PP for State is  
available through VC.  
Mr. Rajender Kumar, learned counsel for accused  
through VC.

Vide this order, bail application u/s 439 Cr.PC dated  
03/07/2020 filed by applicant through counsel is disposed of.

It is stated in the application that bail application is  
already dismissed by Learned MM without appreciating the  
true facts. It is further stated that even as per the  
investigation at most offence u/s 411 IPC is alleged against  
the present accused and not 392 IPC; that he is falsely  
arrested and implicated in this case by the staff of Delhi  
police on 04/06/2020 and thereafter he was shown as  
arrested in the present case; that despite request made, the  
police official is not joining him for TIP and no TIP proceedings  
is conducted so far; that there is no previous criminal record  
of the present accused; that nothing is recovered from him  
except the planted case property; that investigation is



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already complete and he is no more required in the investigation of the present case. As such, no purpose would be served to keep him in JC. Further there is spread of corona virus infection even in the Jail. As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by the IO, as also argued by learned Addl.PP for the State it is stated that such FIR was got registered on 14/02/2020 later on on 05/06/2020; robbed mobile phone of complainant was recovered from the possession of present accused and thereafter during his disclosure statement, he confessed his involvement in the present case alongwith co-accused Sarafat, such Sarafat could not be arrested so far. Further remaining case property is yet to be recovered. Further, complainant was also requested to join TIP but she failed to join the same so far. Chargesheet of the present case is yet to be filed. As such, present bail application is opposed.

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 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

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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

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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



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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



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while granting or refusing bail u/s 439 of the CrPC.

In the present case, on reading of the reply, it appears prima facie that so far the offence alleged against the accused is made out u/s 411 IPC only. Further, no material is available on record regarding his involvement for committing the offence u/s 392 IPC in question. The maximum punishment of the offences u/s 411 IPC alleged against the present accused is 3 years. It is a matter of record that accused is in JC since 05/06/2020. The period for seeking police remand is already over. 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 i.e. an accused is presumed innocent unless proved guilty.

In above facts and circumstances, such 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) 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 ,*

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- 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 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 dasti order or through electronic mode. Copy of order be uploaded on website.**

**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central/Delhi)**  
**08.07.2020**