

State Vs. Ajender Pratap Singh

FIR No: 215/14

Under Section:

PS: Lahori Gate

16.07.2020

Through video conferencing

This is fresh application for extension of interim bail filed on behalf of the application.

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

Sh. Subhash Chauhan, Ld. Counsel for the applicant.

Ld. Counsel for accused is seeking extension of interim bail granted to accused vide order dated 29.05.2020. Earlier application for extension of interim bail was dismissed as withdrawn vide order dated 13.07.2020 of this court and accused has undertaken to surrender before the concerned Jail Superintendent today.

However, in terms of the directions dated 13.07.20 of Hon'ble High Court in W.P.(C) 3037/2020, **Court on its own motion Vs. Govt. of NCT of Delhi & anr**, the interim bail of all such applicants have already been extended by Hon'ble High Court vide a common order till 31st August, 2020. The relevant observations of Hon'ble High Court are as follows:

“ 5. In view of the above, we hereby further extend the implementation of the directions contained in our order dated 25th March, 2020 and 15th May, 2020 and 15th June, 2020 till 31st August, 2020 with the same terms and conditions.

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6. The Hon'ble Single Bench of this Court in Crl.A.193/2020 titled as Harpreet Singh vs State vide order dated 01st July, 2020 sought clarification to the following effect:

“7. The queries that the Hon'ble Full Bench may consider and decide for the guidance of all concerned are as follows:

a. Whether the orders made by the Hon'ble Full Bench in W.P.(C) No. 3037/2020, including last order dated 15.06.2020, apply to all interim orders, whether made in civil or criminal matters, and regardless of whether such orders were made on or before 16.03.2020 or thereafter?

b. Whether interim bail or interim suspension of sentence has been granted by a Bench of this court exercising discretion and based upon specific facts and circumstances of a given case, would such orders also stand automatically extended by operation of orders made by the Full Bench in W.P.(C) No. 3037/2020?

8. While deciding the issue, the Hon'ble full Bench may consider the aspect of parity, namely that, on a plain reading of the orders in W.P.(C) No. 3037/2020, interim orders granted on or before 16.03.2020 appear to be getting extended by general directions; but those made after 16.03.2020 appear not to be covered thereby.”

7. In this regard, we make it clear that all the directions issued from time to time in this case are based on the ongoing pandemic situation in Delhi. So far as the criminal matters are concerned, these directions have been issued keeping in view the fact that the jail authorities have limited space to keep the inmates and in case of spread of Covid-19 pandemic in the jail, it would not be in a position to maintain physical distancing amongst jail inmates.

Looking to this aspect and the possible threat of spreading of viral infection by those persons who are on interim bail/bail/parole granted by this court or the courts subordinate to this court, to other inmates of the jail on their return to the jail, the decision of extension of interim bail/bail/parole has been taken from time to time. It is clarified that this order of extension of bail/interim bail/parole shall be applicable to all undertrials/convicts, who are on bail/interim bail or parole as on date irrespective of the fact that they were released on bail/interim bail or parole before or after 16th March, 2020.

In view of same, the interim bail of accused already stands extended in terms of directions of Hon'ble High Court. **Present application stands disposed off accordingly.**

Copy of this order be sent to concerned Jail Superintendent for information. Copy of this order be given dasti, if requested.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
16.07.2020

State Vs. Annu @ Annu Devi

FIR No: 256/20

Under Section: 448/420/468/471/120B IPC

PS: Burari

16.07.2020

Through video conferencing

This is fresh application for grant of anticipatory bail filed on behalf of the applicant.

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

Sh. Naman Raj Thakur, Ld. Counsel for the applicant.

Reply of IO filed. Copy supplied.

This is second application moved on behalf of the applicant seeking anticipatory bail. The first of such application was dismissed by Ld. ASJ (on duty) vide detailed order dated 14.07.2020. Ld. Defence Counsel has vehemently argued that there is change of circumstance as earlier application was dismissed by Ld. ASJ on the ground that the sale purchase documents of the property of applicant and her husband has not been annexed with the application. Ld. Counsel submits that the same has been annexed with the present application and, therefore, present application may be decided afresh on merits.

Per contra, Ld. APP for State has argued for dismissal of bail on the ground that earlier application of accused (for grant of anticipatory bail) was dismissed by Ld. ASJ and there is no change of circumstance since passing of said order.

I have heard rival contentions and perused the record.

The earlier application (seeking anticipatory bail) of accused was dismissed by Ld. ASJ vide detailed order dated 14.07.2020 while considering all the contentions which have been raised in present application. Perusal of order dated 14.07.2020 reveals that Ld. ASJ while noting down facts in details has observed as follow:

“Allegations against accused/applicant are of serious nature. I am of the considered view that custodial interrogation of accused/applicant is essential to unearth the whole conspiracy. No document/material has been placed/filed by accused/applicant in support of her claim i.e. being the owner of plot in question. Even no date, month or year or amount of purchase has been mentioned in the application in hand.

Keeping in view the totality of facts and circumstances, I find no merits in the application filed by accused/applicant for grant of anticipatory bail. The same is hereby dismissed and disposed of accordingly.”

Therefore, it is clear that the earlier application moved on behalf of accused/applicant was dismissed by Ld. ASJ keeping in view the totality of facts and circumstances and non-placing of sale purchase document was only one such factor and not the sole factor. Ld. ASJ has specifically observed that the custodial interrogation of the accused is essential to unearth the whole conspiracy. Mere placing of certain documents, which were not placed earlier by accused (for reason best known to her) cannot be treated as change in circumstance.

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In the case of **Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and Another**, (2005) 2 SCC 42, the Hon'ble Supreme Court observed as follows:

"Ordinarily, the issues which had been canvassed earlier would not be permitted to be re-agitated on the same grounds, as the same it would lead to a speculation and uncertainty in the administration of justice and may lead to forum hunting."

In the case of **State of Tamil Nadu vs S.A. Raja Appeal (crl.) 1470 of 2005** decided on 26 October, 2005, the Hon'ble Supreme Court held as follows:

"Of course, the principles of res judicata are not applicable to bail applications, but the repeated filing of the bail applications without there being any change of circumstances would lead to bad precedents."

In the case of **Harish Kathuria & Anr. Vs. State, Bail Application No. 1135/2011**, decided on 18.08.2011, the Hon'ble High Court of Delhi has observed as follows :

"Successive bail applications can be filed as has been held in the catena of judgments but then it has been observed that there must be change in circumstances which warrant fresh consideration of the application. Successive bail applications without there being any change in circumstances is not only to be deprecated but is in effect a gross abuse of the processes of law which must be visited with some amount of sanction by way of cost for wasting the time of the Court. There are cases of persons who are languishing in jail for wanting their appeals to be heard

for want of time while as unscrupulous persons like the petitioners, who have embarked on a forum shopping or rather be called a bench hopping, are wasting the time of the Court.”

As there is no change in circumstances after dismissal of previous application for bail and, therefore, the instant application is also to meet the same fate.

The present application appears to be nothing but a crude attempt on the part of defence to try its luck for grant of anticipatory bail on change of Presiding Officer having bail roaster duty.

In view of the aforesaid discussion, application for anticipatory bail moved on behalf of the applicant stands dismissed. Copy of this order be sent to Ld. Defence Counsel by official email, if requested. Another copy of this order be also sent to IO for information.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
16.07.2020

State Vs. Birender @ Virender Kumar Yadav

FIR No: 154/20

Under Section: 304/34 IPC

PS: Burari

16.07.2020

Through video conferencing

This is application for extension of interim bail filed on behalf of the applicant.

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

Sh. S.K.Sharma, Ld. Counsel for the applicant.

The applicant is seeking extension of interim bail, granted to him vide order dated 20.06.2020 by Ld. ASJ (on duty).

In terms of the directions dated 13.07.20 of Hon'ble High Court in **W.P.(C) 3037/2020, Court on its own motion Vs. Govt. of NCT of Delhi & anr**, the interim bail of all such applicants have already been extended by Hon'ble High Court vide a common order till 31st August, 2020. The relevant observations of Hon'ble High Court are as follows:

“ 5. In view of the above, we hereby further extend the implementation of the directions contained in our order dated 25th March, 2020 and 15th May, 2020 and 15th June, 2020 till 31st August, 2020 with the same terms and conditions.

6. The Hon'ble Single Bench of this Court in Crl.A.193/2020 titled as Harpreet Singh vs State vide order dated 01st July, 2020 sought clarification to the following effect:

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“7. The queries that the Hon'ble Full Bench may consider and decide for the guidance of all concerned are as follows:

a. Whether the orders made by the Hon'ble Full Bench in W.P.(C) No. 3037/2020, including last order dated 15.06.2020, apply to all interim orders, whether made in civil or criminal matters, and regardless of whether such orders were made on or before 16.03.2020 or thereafter?

b. Whether interim bail or interim suspension of sentence has been granted by a Bench of this court exercising discretion and based upon specific facts and circumstances of a given case, would such orders also stand automatically extended by operation of orders made by the Full Bench in W.P.(C) No. 3037/2020?

8. While deciding the issue, the Hon'ble full Bench may consider the aspect of parity, namely that, on a plain reading of the orders in W.P.(C) No. 3037/2020, interim orders granted on or before 16.03.2020 appear to be getting extended by general directions; but those made after 16.03.2020 appear not to be covered thereby.”

7. In this regard, we make it clear that all the directions issued from time to time in this case are based on the ongoing pandemic situation in Delhi. So far as the criminal matters are concerned, these directions have been issued keeping in view the fact that the jail authorities have limited space to keep the inmates and in case of spread of Covid-19 pandemic in the jail, it would not be in a position to maintain physical distancing amongst jail inmates. Looking to this aspect and the possible threat of spreading of viral infection by those persons who are on interim bail/bail/parole granted by this court or the courts subordinate to this court, to other

inmates of the jail on their return to the jail, the decision of extension of interim bail/bail/parole has been taken from time to time. It is clarified that this order of extension of bail/interim bail/parole shall be applicable to all undertrials/convicts, who are on bail/interim bail or parole as on date irrespective of the fact that they were released on bail/interim bail or parole before or after 16th March, 2020.”

In view of same, there is no necessity for filing the present application separately. **Present application stands disposed off accordingly.**

Copy of this order be sent to concerned Jail Superintendent for information. Copy of this order be given dasti, if requested.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
16.07.2020

State Vs. Darshan Singh

FIR No: Not known

PS: Civil Lines

16.07.2020

Through video conferencing

This is fresh application for grant of anticipatory bail filed on behalf of the applicant.

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

Sh. Anwar Ahmad Khan, Ld. Counsel for the applicant.

Ld. Counsel undertakes to file vakalatnama within one week.

Report of IO filed. Copy supplied.

In view of report of IO, Ld. Counsel seeks to withdraw the present application. Accordingly, the present application stands disposed off as withdrawn.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
16.07.2020

State Vs. Faisal

FIR No: 245/20

Under Section: 377 IPC

PS: Wazirabad

16.07.2020

Through video conferencing

This is fresh application for grant of regular bail filed on behalf of the applicant.

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

Sh. Rajan Chaudhary, Ld. Counsel for the applicant.

Reply by SHO/IO has not been filed. Be filed by next date of hearing.

Prosecutrix be also given notice by SHO/IO as per practice directions of Hon'ble High Court in prescribed format, who may appear through VC.

Put up for further hearing on 20.07.2020.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
16.07.2020

At this stage, reply has been filed by IO. Copy be sent to Ld. Defence Counsel through e-mail. Put up on date fixed i.e. on 20.07.2020.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
16.07.2020

State Vs. Furqan

FIR No: 204/19

Under Section: 304/308 IPC

PS: Sadar Bazar/ Crime Branch

16.07.2020

Through video conferencing

This is fresh application for grant of interim bail filed on behalf of the applicant.

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

Sh. L.N. Rao, Ld. Counsel for the applicant.

Reply filed by the IO. Copy supplied to Ld. Counsel.

This is second application for grant of interim bail filed by the applicant. As per applicant, he has slipped in jail and sustained injuries on his right hand. Apart from said ground, applicant is also seeking interim bail on the additional ground that he has to take care of his old aged ailing parents, wife and minor daughter.

It is forcefully argued by Ld. Counsel that accused is in custody since 08.12.2019 and there is no evidence against the accused. It is further argued that co-accused Mohd. Rehan has already been granted interim bail vide order dated 29.05.2020 which has also been further extended for next 3 weeks vide order dated 14.07.2020 by Ld. ASJ and, therefore, accused also deserves to be granted bail on the ground of parity in the facts and circumstances of the present case.

Heard. Record perused.

State Vs. Furqan

FIR No: 204/2019

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The pleas taken by accused for grant of interim bail are self-contradictory as on one hand, he claims that he received injuries on his right hand in jail and, therefore, requires interim bail, whereas on the other hand, accused is seeking interim bail on the ground that he has to take care of his old aged ailing parents, wife and minor daughter. In my considered view, if accused is so seriously injured in jail (as claimed by him) then he cannot take care of his family and if he is able to take care of his family, then his injury (if any) is not serious in nature at all.

Be that as it may, the reason (for taking care of family) cited by accused for grant of interim bail does not disclose good grounds to be entertained as the very incarceration of an accused not only curtails his 'personal liberty' but also certain other rights like 'right to maintain and take care of one's family'. Even otherwise, the accused is in custody since 08.12.2019, therefore, it is evident that his family members are maintaining themselves at their own (since long) even in his absence. There can be no question of parity while considering the interim bail.

In the matter of **Ather Parvez Vs. State (Crl. Ref. No. 01/2015 Date of decision 26.02.2016)**, it has been observed by Hon'ble Delhi High Court that:

“...The trial of the appellate courts after conviction are entitled to grant “interim bail” to the accused/convict when exceptional and extra-ordinary circumstances would justify this indulgence. The power is to be sparingly used, when intolerable grief and suffering in the given facts may justify temporary release...”

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It is a settled principle of law that interim bail can only be granted in exceptional circumstances. In the instant application, there are no exceptional circumstances to release the applicant/accused on interim bail. The offence involved is serious in nature.

In view of the above, I am not inclined to release the applicant/accused Furqan on interim bail. His interim bail application is accordingly dismissed.

Copy of this order be sent concerned Jail Superintendent as well as IO for information.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
16.07.2020

State Vs. Javed Yusuf

FIR No: 09/20

Under Section: 356/379/411/34 IPC

PS: Gulabi Bagh

16.07.2020

Through video conferencing

This is fresh application for grant of anticipatory bail filed on behalf of the applicant.

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

Sh. Anil Kumar, Ld. Counsel for the applicant.

Reply filed by IO. However, same is vague and incomplete.

Concerned SHO is directed to file the reply afresh.

Put up for hearing on 17.07.2020.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
16.07.2020

State Vs. Mukesh

FIR No: 212/20

Under Section: 336/120B/34 IPC and 25/27 Arms Act

PS: Wazirabad

16.07.2020

Through video conferencing

This is fresh application for grant of bail filed on behalf of the applicant.

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

Sh. A.K. Sharma, Ld. Counsel for the applicant.

Reply not filed by SHO/IO.

Though the material on record is sufficient to disposed off the present application, however, at the request of Ld. Defence Counsel, matter stands adjourned for hearing on 23.07.2020. Concerned SHO/IO shall file reply without fail by next date of hearing.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
16.07.2020

State Vs. Narender

FIR No: 183/20

Under Section: 452/323/341/504/201/326/34 IPC

PS: Wazirabad

16.07.2020

Through video conferencing

This is fresh application for grant of bail filed on behalf of the applicant.

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

Sh. Sunil Kumar, Ld. Counsel for the applicant.

The case of the prosecution in nutshell is that accused along with other co-accused criminally trespassed into the property of complainant, being armed with various objects and caused injuries/grievous injuries upon complainant/victim.

Ld. APP for State has opposed the bail application of accused. Per contra, Ld. Defence Counsel submits that accused is a heart patient and has been falsely implicated in the present case as the parties are having property dispute. It is further argued that accused deserves to be granted bail on the ground of parity as co-accused namely Arun and Satender have already been granted bail by Ld. Duty MM.

Heard. Record perused.

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Perusal of record reveals that the bail application of the accused was dismissed by Ld. Metropolitan Magistrate inter-alia observing that since Section 326 IPC is attracted in the present case, which is punishable imprisonment upto life, therefore, he is not empowered to grant bail in view of bar provided U/s 437 Cr. P.C.

The parties are admittedly having property dispute. The accused is no more required for investigation. Further, the role of accused is similar to co-accused, who have already been granted bail by Ld. Duty MM.

Therefore, in the facts and circumstances of the case and on the ground of parity and since accused is no more required for investigation, he deserves to be granted bail. **Accordingly, accused Narender is admitted to bail on furnishing PB and SB in the sum of Rs. 20,000/- to the satisfaction of Ld.MM/Ld. Duty MM.**

With these observation, the application is disposed off.

Copy of the order be sent to concerned trial court for information.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
16.07.2020

State Vs. Prince

FIR No: 183/20

Under Section: 452/323/341/504/201/325/34 IPC

PS: Wazirabad

16.07.2020

Through video conferencing

This is fresh application for grant of regular bail filed on behalf of the applicant.

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

Sh. Sunil Kumar, Ld. Counsel for the applicant.

The case of the prosecution in nutshell is that accused along with his co-accused criminally trespassed the property of complainant and caused injuries/grievous injuries upon victims. The anticipatory bail of the accused was dismissed as withdrawn on 19.06.2020. The first regular bail of the accused was dismissed by Ld. Metropolitan Magistrate inter-alia observing that Section 326 IPC is attracted in the present case and since the said offence is punishable with life imprisonment, therefore, he is not empowered to grant bail in view of bail of Section 437 Cr. P.C.

Heard. Considered.

The police remand was denied by the concerned Duty MM. Accused is young person aged 21 years. Further, admittedly co-accused Arun and Satender have already been granted bail by Ld. Duty MM. In the instant case, the role of accused is similar to said accused, therefore, in the facts and

circumstances of the case and on the ground of parity and since accused is no more required for investigation and considering his young age, she deserves to be granted bail. Accused Prince is admitted to bail on furnishing PB and SB in the sum of Rs. 20,000/- to the satisfaction of Ld.MM/Ld. Duty MM.

With these observation, the application is disposed off.

Copy of the order be sent to concerned court.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
16.07.2020

State Vs. Saim @ Namir

FIR No: 0025/20

Under Section: 435/436/506/34 IPC

PS: Bara Hindu Rao

16.07.2020

Through video conferencing

This is fresh application for grant of regular bail.

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

Sh. Ayub Ahmed Qureshi, Ld. Counsel for the applicant.

Ld. Counsel for accused undertakes to file vakalatnama on next date of hearing.

Part arguments heard.

At request of Ld. APP for State, put up for remaining arguments on 21.07.2020.

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