

B. A. No. 1904
FIR No. 321/2020
PS: Burari
State Vs. Manisha Sharma
U/s 370/34 IPC

02.12.2020 at 4 pm

ORDER

This is an application under Section 439 CrPC for grant of regular bail on behalf of accused-applicant Manisha Sharma in case FIR No. 321/2020.

Ld. counsel for the accused-applicant has contended that accused-applicant has been falsely implicated in the present case. That accused-applicant is innocent and has nothing to do with the present offence. That four accused have been granted bail out of eight accused in the present FIR. That new born baby has been recovered from co-accused Sh. Sanjay Mittal who has been granted bail by this Hon'ble Court. That on 11.11.2020 one of the Co-accused namely Smt. Manju Mathur has been granted bail by the Hon'ble High Court of Delhi. That the husband of applicant is suffering from HIV Positive and he is in critical position. That the applicant is having three small children. The husband is not a position to look after them. That the accused has been arrested on 14.08.2020 on disclosure statement of the other co-accused since then she is in Judicial custody. That investigation has been almost completed in the present FIR and all co-accused have been arrested alongwith accused . That during the investigation the new baby born Preeti has been recovered by investigation



agency from one of the accused Sanjay Mittal who has been granted bail by this Hon'ble Court. That no custodial interrogation is required in the present case. That no recovery is to be effected from the accused. That no offence under section 370 of IPC is made out against the petitioner and she has no criminal record and is in custody since 14.08.2020. That there is nothing incriminating or any other evidence which could indicate the involvement of the petitioner in the alleged offence and She has been wrongly and falsely implicated in the said FIR. That other co-accused namely Sanjay Mittal, Deepa and Neeru Yadav have been granted bail. Sanjay Mittal and Deepa have been granted regular bail and Neeru Yadav has been granted anticipatory bail. That the applicant moved bail application before this Hon'ble Court which has been dismissed on 02.09.2020, thereafter, Sanjay Mittal has been granted bail. That one of the Co-accused namely Manju Mathur has been granted bail on dated 11.11.2020 by this Hon'ble High Court of Delhi. That the applicant/accused is entitled to get bail on the ground of parity. That the petitioner has deep roots in the society. That the applicant/accused has no any previous involvement in any crime and in any police station or court till today. Ld. counsel for accused-applicant contended that writing purportedly executed by the biological parents of the child was not recovered from the possession of the accused-applicant but from the possession of accused Indu as is clear from the reply of the IO filed to the bail application of one of the co-accused Manju Mathur.

Ld. Addl. PP for State submits that as per reply of the IO

Neeru Yadav

investigation in the matter has been completed and chargesheet is going to be filed shortly. That accused-applicant does not have any previous involvement and as per the investigation conducted in this case it has surfaced that the biological parents of the girlchild had of their own free will and volition handed over the girlchild after her birth to accused Manisha and Deepa as they were financially hard pressed and their two children were special children as one daughter was physically handicapped and the second daughter was visually disabled and required all the attention and resources at their command and they were not in a position to support the new born and infact required financial assistance for the maintenance of the other two children and had also made a writing to this effect. That accused Manisha and Deepa further gave the girl child to co-accused Manju through the accused Indu who had given the girl child to the Sanjay Mittal who was looking forward to adopt a child as Sanjay Mittal and his wife were childless couple.

Heard.

The present case FIR came to be registered on the statement of a Representative Councillor of Delhi Women Commission as it came to the knowledge of the representative councillor of the Delhi Women Commission that one Amanpreet had sold his two and a half month girl child for consideration, upon which the Representative Councillor i.e. Complainant went and met Amanpreet and his wife Jyoti in order to inquire into the matter and found that on 29.05.2020 Jyoti gave birth to a baby Girl, and on 01.08.2020 Amanpreet sold his baby namely Preeti to Manisha through a private nurse Anita, upon which the present case FIR came to be registered. During investigation, it was found that Amanpreet and Jyoti had two daughters both of whom were handicapped and when they were blessed with another girl child,

Neelgaur

they decided to sell their newly born as they were not in a position to support the child and they came in contact with a private Nurse Anita amongst their neighbours, and told her that they wanted to give away their baby girl to a rich family to save her future as they are not capable of taking care of her. Through Anita, they met accused-applicant Manisha and accused Deepa, and made a deal to sell the baby girl for an amount of Rs 40,000/- and Amanpreet also wrote a letter in this regard that they have given their daughter willingly after receiving Rs. 40,000/- and in future they don't have any relation with the baby which was given to Manisha as proof besides Manisha and Deepa also have made video, when Amanpreet and his wife Jyoti received the said amount. It is also revealed in the course of investigation that Manisha and Deepa further sold the baby to one Manju through one lady Indu, and the said Manju had sold the baby to the Sanjay Mittal. On 13.08.2020 the baby Girl was recovered from the house of Sanjay Mittal and it also came to light in the course of investigation that Sanjay Mittal and his wife had received the baby after paying one lakh rupees to Manju and on 12.08.2020 they had also organized a family function i.e. chhati. Amanpreet, Manisha, and Sanjay Mittal were arrested on 13.08.2020 and Deepa and Manju were arrested on 14.08.2020 and wife of Sanjay Mittal was formally arrested on 01.09.2020 and released on bail as she was granted anticipatory bail and accused Indu was arrested on 03.09.2020 and the paper written by the accused Amanpreet i.e. father of the baby Preety was also recovered from her.

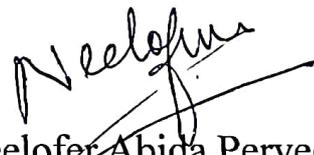
The bail application of co-accused Indu was dismissed by this Court though it came to be contended on behalf of the accused-applicant that co-accused Indu from whom the writing is recovered has been granted regular bail by this Court. However, since the dismissal of the last bail application of the accused-applicant, co-accused Sanjay Mittal was granted regular bail by this

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Court and another co-accused Manju Mathur is granted regular bail by H'ble the High Court of Delhi on the ground of parity. It would therefore be required to be assessed if the accused-applicant in such circumstances and facts of the case would also become entitled to regular bail on the ground of parity, as to whether the case of the prosecution against co-accused Manju Mathur is on same footing as that against the accused-applicant. The accused-applicant alongwith another co-accused is alleged to have purchased the baby girl form the biological parents and accused Manju Mather received payment for tracing the childless couple looking forward to adopt the child. Both of them are links in the same chain, partaking in the same racquet, with the same intention and knowledge and acting as conduits between the biological parents and accused Sanjay Mittal who wanted to adopt a baby as he and his wife had not been blessed with a child of their own. Though the writing is alleged to have been got executed at the instance of accused-applicant however, it is not recovered from the accused-applicant but another co-accused and the name of the accused-applicant is not found mentioned thereunder. Accused is also alleged to have prepared a video of the incident however, it is not alleged that any such video is recovered at the instance of the accused-applicant. In view thereof the case of the prosecution against the accused-applicant stands on similar footing as that of co-accused Manju Mathur who has been granted bail by H'ble the High Court of Delhi, and hence, on the ground of parity the present application is allowed and accused Manisha is granted regular bail in case FIR No. 321/2020 subject to her furnishing personal bond with one local surety in the sum of Rs. 50,000/- each to the satisfaction of the Ld. Trial Court upon verification of addresses, and upon the conditions that she shall mention the mobile phone number to be used by her in the Bond, which mobile phone number it shall

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be ensured by her is kept on switched mode throughout with location activated and shared with the IO at all times. That the accused-applicant shall not leave the territorial limits of NCR Region without the prior intimation to the IO. That she shall scrupulously appear on each and every date of hearing before the court so as not to cause any obstruction or delay to its progress and shall not interfere with the proceedings in any manner, that shall not engage in any criminal activity, that shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her/them from disclosing such threats to the Court or to any police officer or tamper with the evidence. That accused and surety shall not change their mobile phone numbers and verified addresses without prior intimation to the IO. Application stands disposed of accordingly.



(Neelofer Abida Perveen)
ASJ (Central)THC/Delhi
02.12.2020

FIR No. 567/2020
PS Wazirabad
State v. Babu Lal
M.No.41/2020

02.12.2020

Present: Sh. K. P. Singh, Addl. PP for State (through video conferencing).
Sh. Pranay Abhishek, Counsel for applicant through video conferencing.
Hearing is conducted through videoconferencing.

This is an application for release of vehicle bearing No. DL ICAB 8282 Mahindra SUV 500 on superdari on behalf of owner-applicant Sachin

Reply is filed.

Arguments heard. For orders, put up at 4 pm.


(Neelofer Abida Perveen)
ASJ (Central) THC/Delhi
02.12.2020

At 4 pm
ORDER

This is an application for release of vehicle bearing No. DL ICAB 8282 Mahindra SUV 500 on superdari on behalf of owner-applicant Sachin

Ld. counsel for the accused-applicant submits that the accused-applicant is the owner of the vehicle in question. That recovery of contraband is from the possession of accused Babu Lal and applicant has nothing to do with the present offence. That vehicle was borrowed by



accused Babu for his personal use three-four days prior to the date of apprehension and thereafter he was found in possession of contraband being carried in the vehicle of the applicant without any knowledge or connivance of the applicant. That the condition of vehicle is deteriorating day by day. That the applicant is also cited as a witness and undertakes to produce the vehicle as and when so required/directed for the purposes of the trial. That chargesheet has been filed in the Court.

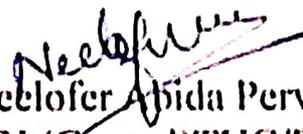
Ld. Addl. PP submits that the investigation is completed and vehicle in question is no longer required for the purpose of investigation and that the contraband is recovered from the back seat of the vehicle, however no conspiracy is alleged for the use of the vehicle for the purposes of transport of the contraband between the registered owner of the vehicle and the accused from whose possession the contraband is recovered in this case.

Heard.

It has been verified that the accused-applicant is the registered owner of the vehicle ie bearing No. DL 1CAB 8282 Mahindra SUV 500. The contraband is alleged to have been recovered from the search of this vehicle kept on the rear seat being driven by accused Babu Lal. Investigation is now complete and chargesheet is now filed in Court. There is no material set up against the registered owner that the registered owner had knowingly/intentionally handed over the vehicle for use by the accused for commission of offences under the NDPS Act. The prosecution has no objection to the release of the vehicle. The applicant registered

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owner is also cited as a witness by the prosecution, the vehicle would be required for the purposes of identification by the prosecution witnesses. However the continued police possession of the vehicle now is to not serve any purpose besides resulting depreciation in value of the vehicle and its condition. In the totality of the facts and circumstances therefore the present application is allowed and vehicle bearing No. DL 1CAB 8282 Mahindra SUV 500 is ordered to be released on superdari to the applicant Sh. Sachin on furnishing *superdarnama in the sum of Rs.1 Lac* to the satisfaction of SHO/IO, subject to the undertaking that he shall produce the same vehicle as and when required by this court in the course of the trial and upon the condition that the vehicle shall not be transferred without prior permission of this Court during the pendency of the trial. SHO/IO to get prepared two sets of photographs of the vehicle. One set of which shall be placed before the court within 10 days and other to be retained by police. Photographs shall be taken at the expense of the applicant.


(Neelofar Perveen)
ASJ (Central)THC/Delhi
02.12.2020

FIR No. 315/2020
PS Roop Nagar
State v. Tulsi Ram Yadav
Bail Application No.2032/20
And
FIR No. 315/2020
PS Roop Nagar
State v. Rakesh Yadav
Bail Application No.2033/20

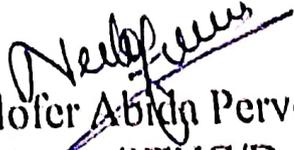
02.12.2020

Present: Sh. K. P. Singh, Addl. PP for State (through video conferencing).
Sh.Suraj Kumar, Counsel for accused-applicant through videoconferencing.

Hearing is conducted through videoconferencing.

These are two separate applications for grant of bail on behalf of accused-applicant Tulsi Ram Yadav and Rakesh Yadav in case FIR No.315/20.

Ld. Counsel for accused-applicants submits that there are some facts required to be incorporated which inadvertently were left out in the present applications and therefore, he wishes to withdraw both the applications in order to enable him to file fresh applications incorporating the required materials. In view of the submissions made, both the applications are dismissed as withdrawn.


(Neelofer Abida Perveen)
ASJ (Central)THC/Delhi
02.12.2020

FIR No. 140/2018
PS Kotwali
State v. Rajesh Patel
M.No.42

02.12.2020

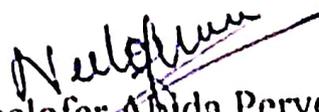
Present: Sh. K. P. Singh, Addl. PP for State (through video conferencing).

Ms. Divya Upadhyay, Counsel for accused-applicant (through video conferencing).

Hearing is conducted through videoconferencing.

This is an application for release of RC of vehicle bearing NO.DL-8SBU3599 on superdari on behalf of accused-applicant.

Office to report in respect of the averments made in the application. For consideration, put up on 08.12.2020.


(Neelofer Akhda Perveen)
ASJ (Central)THC/Delhi
02.12.2020

FIR No. 140/2018
PS Kotwali
State v. Sanjay Gupta
M.No.43

02.12.2020

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

Ms. Divya Upadhyay, Counsel for accused-applicant (through video conferencing).

Hearing is conducted through videoconferencing.

This is an application for release of RC of vehicle bearing No.DL-1CAA9276 on superdari on behalf of accused-applicant.

Office to report in respect of the averments made in the application. For consideration, put up on **08.12.2020**.


(Neelofer Abida Perveen)
ASJ (Central) THC/Delhi
02.12.2020

FIR No. 140/2018
PŚ Kotwali
State v. Nitin Sharma
M.No.44

02.12.2020

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

Ms. Divya Upadhyay, Counsel for accused-applicant (through video conferencing).

Hearing is conducted through videoconferencing.

This is an application for release of RC of vehicle bearing NO.DL-2CAN2577 on superdari on behalf of accused-applicant.

Office to report in respect of the averments made in the application. For consideration, put up on **08.12.2020**.


(Neelofer Abida Perveen)
ASJ (Central)THC/Delhi
02.12.2020

FIR No. 140/2018
PS Kotwall
State v. Mukesh Verma
M.No.45

02.12.2020

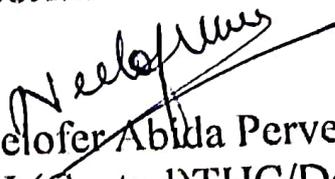
Present: Sh. K. P. Singh, Addl. PP for State (through video conferencing).

Ms. Divya Upadhyay, Counsel for accused-applicant (through video conferencing).

Hearing is conducted through videoconferencing.

This is an application for release of RC of vehicle bearing NO.DL-13SS7174 on superdari on behalf of accused-applicant.

Office to report in respect of the averments made in the application. For consideration, put up on **08.12.2020**.


(Neelofer Abida Perveen)
ASJ (Central)THC/Delhi
02.12.2020

FIR No. 140/2018
PS Kotwali
State v. Vishnu Kumar Aggarwal
M.No.46

02.12.2020

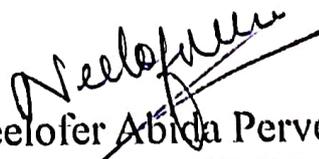
Present: Sh. K. P. Singh, Addl. PP for State (through video conferencing).

Ms. Divya Upadhyay, Counsel for accused-applicant.

Hearing is conducted through videoconferencing.

This is an application for release of RC of vehicle bearing NO.DL-4CAY2086 on superdari on behalf of accused-applicant.

Office to report in respect of the averments made in the application. For consideration, put up on **08.12.2020**.


(Neelofer Abida Perveen)
ASJ (Central)THC/Delhi
02.12.2020

FIR No. 401/2017
PS Nabi Karim
State v. Arjun
U/s 307 IPC and 25/27 Arms Act
02.12.2020

Present: Sh. K.P.Singh, Addl. PP for State (through video conferencing)
None for accused-applicant.
Inspector Tej Singh-IO has also joined the Webex hearing.
Hearing conducted through Video Conferencing.

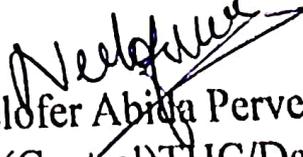
This is application under Section 439 CrPC for grant of interim bail on behalf of accused-applicant Arjun in case FIR No. 401/2017.

None has joined the webex hearing on behalf of the applicant.

Ld. Addl. PP submits that the status of the previous involvement is filed and several cases are pending for trial against the accused-applicant and in some he stands acquitted and that the factum of marriage of sister of the accused and family status has also been verified. That besides the accused, there are two other brothers and also other family members and relatives who are capable enough to manage the requirements necessary for the solemnization of marriage of the sister of the accused-applicant. Moreover, the accused-applicant had filed an application for grant of interim bail raising the same ground i.e. marriage of his sister on 09.12.2020, in case FIR NO.348/18 which was dismissed on 28.11.2020 by the Court of Ms.Charu Aggarwal, Ld.ASJ, Delhi.

Reply is filed. Copy of the same be forwarded to Ld. Counsel for accused-applicant.

In the interest of justice, for consideration, put up on 07.12.2020.


(Neelofer Abida Perveen)
ASJ (Central)THC/Delhi
02.12.2020

FIR No. 445/2020

PS Civil lines

State v. Geeta

02.12.2020

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

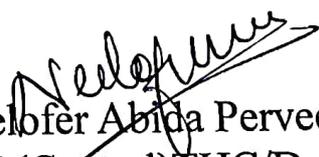
Sh.Ghanshyam Kaushik, Counsel for accused-applicant through videoconferencing.

Hearing is conducted through videoconferencing.

This is an application for grant of regular bail on behalf of accused-applicant Geeta in case FIR No.445/20.

Reply is filed. Copy is received by Ld. Counsel for accused-applicant. Ld. Counsel for accused-applicant submits that reply is received today itself and he requires some time to go through the same.

For consideration, put up on **11.12.2020**.


(Neelofar Abida Perveen)

ASJ (Central) THC/Delhi

02.12.2020

B.A. No. 2031
FIR No. 558/2020
PS Wazirabad
State v. Nosad Ahmed
U/s 33 Excise Act

02.12.2020

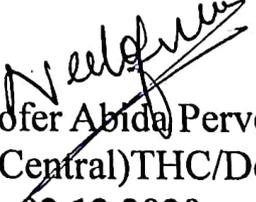
Fresh application received. Be registered.

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

Hearing is conducted through video conferencing.

This is an application u/s 439 Cr.P.C for grant of regular bail on
behalf of accused-applicant Nosad Ahmed in case FIR No. 558/2020.

Arguments heard. For orders, put up on **03.12.2020**.


(Neelofer Abida Perveen)
ASJ (Central)THC/Delhi
02.12.2020

B.A. No. 3750
FIR No. 373/2020
PS Timarpur
State v. Aslam @ Aslam
U/s 394/34 IPC
02.12.2020

Present: Sh. K. P. Singh, Addl. PP for State (through video conferencing)
Sh. Naman Jain, Counsel for accused-applicant through videoconferencing.
Sh. Anil Kumar Sharma, Counsel for victim through videoconferencing.

Hearing is conducted through videoconferencing.

This is an application for grant of bail on behalf of accused-applicant Mohd. Aslam in case FIR No.338/20.

Reply is filed. Adjournment is being sought on behalf of the accused-applicant on the ground that Ld. Main Counsel due to marriage of his son is in personal difficulty today.

Let reply be forwarded on email ID of the Ld. Counsel for the applicant.

For consideration, put up on **11.12.2020**.


(Neelofar Abida Perveen)
ASJ (Central) THC/Delhi
02.12.2020

B. A. No. 1831
FIR No. Not Known
PS: Burari
State Vs. Vinod

02.12.2020 at 4 pm

ORDER

This is an application under Section 438 CrPC for grant of anticipatory bail on behalf of applicant Vinod.

Ld. counsel for the applicant contended that during the period of pandemic and lock down, the wife of the applicant has filed a false and frivolous complaint against the applicant and his family members before the CAW Cell in order to falsely implicate the applicant and his family members without any rhyme and reason. The applicant is regularly appearing before the IO concerned and has been joining the investigation. That since the day of leaving, the applicant has tried his level best to make the complainant understand but the complainant has flatly refused to join the company of the applicant and started demanding a huge amount to settle the case between the complainant and the applicant however the applicant is still ready to live with the complainant. That besides the complaint, the wife of the applicant has also filed the false and frivolous case under section 125 CrPC and the complaint u/s 12 of Domestic Violence Act and the same are pending in Tis Hazari court Delhi wherein the applicant is regularly pursuing his case through his counsel. That the applicant has leveled general and vague, false and frivolous allegations against the applicant and his family member and neither the applicant nor

Neelesh Kumar

his family member have committed any cruelty or raised any alleged demand. That infact just after marriage, the complainant disclosed to the applicant that she does not love the applicant but the applicant thought it best to give some time to erase all the past memories but in vain. That just after fifteen days of the marriage, when on 16.12.2016 the applicant picked the phone on the mobile phone of the complainant and seen some recording, he came to know that the complainant is maintaining illicit relations with one Pawan kumar Sharma, when the applicant complained to the family member of the complainant about having the illicit relation with Pawan kumar Sharma and then on 24.12.2016 all the family members including the complainant admitted their mistake among the members of the society and assured to the family member of the applicant not to repeat such kind of act in future upon which the accused became ready to keep the complainant in his home but the complainant never changed her behavior towards the applicant and his family members. That the complainant got pregnant due to love and care of the applicant but the complainant still did not mend her ways. That when the elder brother fell ill none of the family member of the complainant was ready to get him medically treated and it is the applicant who got Manish admitted in the LNJP hospital for his medical treatment and expended more than 1.5 lakh on his treatment but unfortunately he died on 18.11.2018 but prior to his death disclosed that his sister Ruhi was legally married with Pawan Kumar Sharma and after their marriage both have finalized their basic rituals of marriage as both have gone Honey Moon to Taj Mahal and other places.

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That the applicant is constantly visiting the IO of CAW Cell and joining the investigation and also regularly following each and every direction as and when made by the IO concerned. Despite that the applicant has the apprehension that the FIR may be registered against the applicant at the behest of the complainant who with collusion of the police official of PS Burari may get the applicant arrested in a false and frivolous FIR and that under such circumstances notice in advance may be served upon him as and when FIR is registered or the arrest of the applicant would be required. That as per reply of the IO though complaint has been received on behalf of wife of the accused-applicant, however, till date no FIR is registered against accused-applicant and the proceedings are still pending before the CAW cell and that the relief sought under the present application is that 7 days/ 4 days prior notice may be served upon the accused-applicant before registration of the FIR as the accused-applicant has apprehension that he shall be illegally arrested in connection with the complaint that admittedly has been filed on behalf of the complainant. In support of his contentions, Ld. counsel has relied upon decision in **Gurbaksh Singh Sibbia etc. v. State of Punjab** 1980 AIR 1632 and **Arnesh Kumar v. State of Bihar & Anr.** CrI. Appeal No. 1277/2014 decided by the Hon'ble Supreme Court on 02.07.2014.

Ld. Addl. PP submits that there is no provision of serving pre arrest notice to the accused and that complaint that was filed by the wife of the accused-applicant has been referred to the CAW Cell for conciliation proceedings and that there is no FIR registered against the accused-

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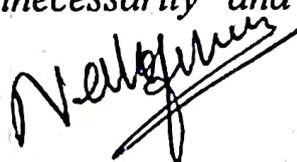
applicant. Ld. Addl. PP has relied upon decision in **Enforcement Directorate v. Tilak Raj Arora** CrI. M. C. 1659/2017 & CrI.M. A.6734/2017 decided by Hon'ble High Court on 21.11.2019.

Heard.

It emerges from the reply of the IO that one complaint filed by the wife of the applicant was received at PS Burari for enquiry raising allegations against accused-applicant of mental and physical harassment, demand of money and also threatening her and in course of enquiry, the complainant was examined and she stated that she has filed a DV Act case and she has also filed a case u/s 125 CrPC in Tis Hazari Courts Delhi, and both her cases are pending and that her complaint against her husband and in-laws is also pending in CAW cell, Subzi Mandi and that no FIR has been registered against the applicant Vinod Kumar in PS Burari on the complaint of his wife as the complaint filed earlier is already pending with CAW Cell Subzi Mandi.

There is no FIR till date registered against the applicant on the basis of the complaint of his wife filed in PS, Burari and the previous complaint of the wife of the applicant is pending with the CAW cell Subzi Mandi. The accused-applicant is appearing before the CAW Cell proceedings as per the own contention of the applicant. H'ble the Supreme Court of India in **Arnesh Kumar's** case (supra) issued directions for the police applicable particularly in cases pertaining to offence under Section 489A IPC and the same are being reproduced hereunder:-

"Our endeavour in this judgment is to ensure that police officers do not arrest accused unnecessarily and Magistrate do not



authorise detention casually and mechanically. In order to ensure what we have observed above, we give the following direction:

All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, Cr.PC;

All police officers be provided with a check list containing specified sub- clauses under Section 41(1)(b)(ii);

The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;

Notice of appearance in terms of Section 41A of Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;

Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.

Authorising detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court."

N. S. Reddy

The enquiry in the complaint of the wife of the applicant is pending with the CAW Cell, and at this stage there is no FIR registered. Even upon the registration of the FIR, in terms of the mandatory directions issued as produced supra by the Apex Court, at the first instance there has to be a notice in terms of section 41A issued and it is only where the applicant fails to comply with the notice and the arrest of the applicant would be required for the purposes of investigation after recording in writing his satisfaction that the IO can proceed for the apprehension of the applicant in connection therewith. The applicant seeks pre-arrest notice/notice before the registration of FIR against him. Such genre of directions have been deprecated upon by H'ble the Apex Court and H'ble the High of Delhi. In **Enforcement Directorate's case (supra)** Hon'ble High Court relying upon the judgement of H'ble the Apex Court has held as follows has observed as under:-

'3. Learned counsel for petitioner submitted that the directions passed by the Ld. Judge are contrary to the settled law. The Apex Court in a catena of judgments has held that the directions of this nature cannot be passed while disposing of application for anticipatory bail. The Hon'ble Supreme Court in the case of Union of India vs. Padam Narain Aggarwal (2008) 13 SCC 305 in identical circumstances has held as under: -

"64. In our judgment, on the facts and in the circumstances of the present case, neither of the above directions can be said to be legal, valid or in consonance with law. Firstly, the order passed by the High Court is a blanket one as held by the Constitution Bench of this Court in Gurbaksh Singh and seeks to grant protection to respondents in respect of any non-bailable offence. Secondly, it illegally obstructs, interferes and curtails the authority of Custom Officers from exercising statutory power of arrest a person said to have committed a non-bailable offence by imposing a condition of

N. S. Singh

giving ten days prior notice, a condition not warranted by law. The order passed by the High Court to the extent of directions issued to the Custom Authorities is, therefore, liable to be set aside and is hereby set aside.

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xxxxx

18. Keeping in view the reports of the Law Commission, Section 438 was inserted in the present Code. Sub-section (1) of Section 438 enacts that when any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or to the Court of Session for a direction that in the event of his arrest he shall . Bar & Bench (www.barandbench.com) CRL.M.C. 1659/2017 Page 10 of 11 be released on bail, and the Court may, if it thinks fit, direct that in the event of such arrest he shall be released on bail.

19. Sub Section (2) of 438 lays down that when the High Court or the Court of Sessions makes a direction under sub- section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit. Sub Section (3) of 438 lays down that if such person is thereafter arrested without warrant by an officer in charge of a police station on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to give bail, he shall be released on bail; and if a Magistrate taking cognizance of such offence decides that a warrant should issue in the first instance against that person, he shall issue a bailable warrant in conformity with the direction of the Court under sub- section (1).

20. Finally, the ratio of judgment of the Hon'ble Supreme Court in the case of PN Aggarwal (supra) is that the Court has power to grant or not to grant anticipatory bail. But the court has no power to direct the IO to issue notice prior to arrest."

The relief sought is not mandated in exercise of the discretion vested under section 438 Cr. PC, there is no apprehension at this stage as there is not even an FIR registered against the applicant. The Investigating agency as the case pertains to matrimonial dispute is bound to follow the

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procedure as laid down by the H'ble Apex Court. At this stage therefore there are no directions required to be passed for release of the applicant in the event of arrest and no such directions as sought by the applicant are capable of being passed. The application is accordingly dismissed.


(Neelofer Abida Perveen)
ASJ (Central) THC/Delhi
02.12.2020

B. A. No. 1845
FIR No. 373/2020
PS: Timarpur
State Vs. Sanjay Lohiya
U/s 394/34 IPC

02.12.2020

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

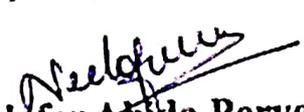
IO SI Ashok Meena through video conferencing.

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

Hearing is conducted through video conferencing.

This is an application under Section 439 CrPC for grant of regular bail on behalf of accused-applicant Sanjay Lohiya in case FIR No.373/2020.

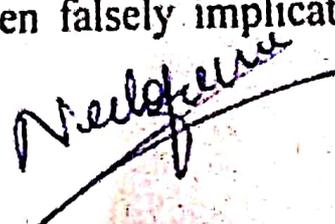
Arguments heard. For orders, put up at 4 pm.


(Neelofar Abida Perveen)
ASJ (Central)THC/Delhi
02.12.2020

At 4 pm
ORDER

This is an application under Section 439 CrPC for grant of regular bail on behalf of accused-applicant Sanjay Lohiya in case FIR No.373/2020.

Ld. counsel for the accused-applicant contended that the applicant/accused has been falsely implicated in the present case and is



arrested on 30.10.2020 in connection therewith and is in judicial custody since then. That the applicant/accused has clean past antecedents with no previous involvement and he has a good background in sports having represented India in national games 2011 being an athlete and also winning several medals and merit certificates from the Delhi Olympic Association in 2018. That there is no direct allegation against the applicant/accused in the aforesaid case and the allegation leveled against him is based only upon the disclosure statement of the co-accused. That during the investigation nothing incriminating has been recovered from the possession of the applicant/accused and if any, the same is planted upon the applicant/accused with ulterior motive. That investigation qua the applicant/accused has already been completed and he is no more required to be kept in judicial custody for the purposes of investigation. That the applicant/accused has a family consisting of his widow mother, wife and two minor kids out of whom one child namely Aryan aged about 6 years has been suffering from severe disease pertaining to liver since long and his regular checkups and treatment is going on since year 2016 till date and the applicant/accused is only bread earner of his family. That the dispute infact has been interse the complainant and the accused Aslam in respect of a property purchased by the brother of the complainant and now the dispute has been settled and it has been agreed to approach H'ble the High Court of Delhi for quashing of the present FIR and all consequential proceedings.

Ld. Addl. PP submits that the accused-applicant conspired with the

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main accused namely Aslam to obtain the property documents and had called the co-accused to the place where the robbery took place. That the case property is recovered from accused-applicant. That the dispute in respect of the immovable property is now settled by way of Settlement agreement. That the custody is not required for the purposes of investigation. That there is no other criminal case registered against the accused-applicant.

Heard.

The present case was registered on the statement of complainant Sh. Virndawan that on 27/12/20 he was going to Mukharjee Nagar along with his friend Sanjay, who is nfact the accused-applicant, on his scooty and at about 4.30 PM when they had reached at DDA Ground, Near Nala Mukharji Nagar, three persons came from back side on a black color bike and robbed his property papers and one Mobile Phone Lava from him, a purse containing Rs 12300/- from Sanjay and the complainant was stabbed with knife in his thigh.

In the course of investigation when the call details of accused-applicant Sanjay, who was with the complainant at the time of robbery and stabbing, were analyzed it came to light that accused/applicant continuously contacted with co-accused Aash Narayan and during interrogation accused-applicant Sanjay disclosed that he had conspired with another accused namely Aslam, a property dealer to rob the property documents which were between co-accused Aslam in favor of brother in-law of complainant for a sum of Rs 14,40000/-. That applicant-accused

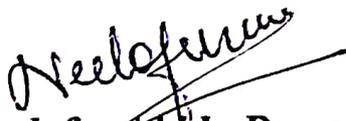
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Sanjay hired co-accused Aash Narayan for this robbery. That accused/ applicant Sanjay, Aslam and Ash Narayan were arrested and robbed property papers, purse of the complainant, PAN card, driving license, Adhar Card were recovered from accused Sanjay and motorcycle used in commission of offence was recovered from accused Aash Narayan.

The genesis lies in a property dispute and the entire incident was a ruse to secure the property documents, though of a decidedly sinister nature professionally executed and the complainant is also struck a knife blow strategically on the thigh area, not to endanger life but sufficient to deter hot pursuit of the robber. It is also to be countenanced that the dispute is stated to have now been settled and the parties are in the process of approaching H'ble the High Court of Delhi seeking quashment of the FIR. The accused-applicant has clean antecedents, and investigation is now complete as all accused are in custody and all recoveries stand effected including the property documents. No purpose is to be served by keeping the accused-applicant in custody any further. In such facts and circumstances therefore, the present application is allowed and accused Sanjay Lohiya is granted regular bail in case FIR No.373/2020 subject to his furnishing personal bond with one local surety in the sum of Rs. 50,000/- each to the satisfaction of the Ld. Trial Court upon verification of addresses, and upon the conditions that he shall mention the mobile phone number to be used by him in the Bond, which mobile phone number it shall be ensured by him is kept on switched mode throughout with location activated and shared with the IO at all times. That the accused-applicant

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shall not leave the territorial limits of NCR Region without the prior intimation to the IO and shall not travel abroad without the permission of Ld. Trial Court. That he shall scrupulously appear on each and every date of hearing before the court so as not to cause any obstruction or delay to its progress and he shall not interfere with the proceedings in any manner, that he shall not engage in any criminal activity, that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her/them from disclosing such threats to the Court or to any police officer or tamper with the evidence. That accused and surety shall not change their mobile phone numbers and verified addresses without prior intimation to the IO. Application stands disposed of accordingly.


(Neelofer Abida Perveen)
ASJ (Central)THC/Delhi
02.12.2020

**FIR No. 176/2017
PS DBG Road
State v. Kaushal Singh
U/s 307 IPC**

02.12.2020 at 4 pm

At the time of passing of orders it emerges that clarifications are required from the accused / non applicant and prosecution and record is also to be referred to for the disposal of present application. Put up on physical hearing date ie 4.12.2020. the accused-applicant is directed to remain present through videoconferencing or in the Court for Physical hearing as the contents of the application and messages and even the reply of prosecution indicate that the accused non applicant is calling the complainant for discussion and is trying to establish communication with the complainant.


(Neelofer Abida Perveen)
ASJ (Central)THC/Delhi
02.12.2020

B. A. No. 2630 (New B. A. No. 1439)

FIR No. 13/2020

PS: Burari

State Vs. Shamshad

U/s 376/506/34 IPC

Q. 12.2020 at 4 pm

ORDER

This is an application under Section 438 CrPC for grant of anticipatory bail on behalf of accused-applicant Shamshad in case FIR No.13/2020.

Ld. counsel for the accused-applicant contended that the allegations by themselves disclose that they are false and inherently improbable. That accused-applicant is having five children, and four of his children are living with the applicant at his native place. That the complainant without informing her husband came to the house of accused-applicant and insisted that she would live there only and one portion of the house be transferred in her name. That despite having been raped in the year 2015, the complainant kept quiet and chose to file compliant only in the year 2019. That allegations as false on the face of it as the complainant had been residing in village Kharkhoda with her children as is further evident from the fact that the complainant has not even disclosed her place of residence and not even stated that she has been residing at the place in question. That it is completely absurd and untenable that the applicant who left Delhi in 2014 could rape her in his two room house where his elder most son alongwith is younger brother, his wife and his four children of younger brother live under one roof. That younger brother of the accused-applicant

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has already been granted anticipatory bail. that the FIR is mala fide with the motive to gain leverage in the property dispute and extort amounts. That the complainant has herself appeared and stated that she does not wish to pursue the present complaint. Ld. counsel for the accused-applicant has relied upon decision in Arnesh Kumar v. State of Bihar 2014 (8) SCC 273 and Satnam Satlingappa Mehtre v. State of Maharashtra 2011 (1) SCC 694.

Ld. Addl. PP on the other hand submitted that accused-applicant evaded his arrest and even proceedings under Section 82 CrPC were initiated against him on 08.10.2020.

Heard.

It is alleged by the prosecutrix that on 20.05.2015 at 1 pm, when her husband was away to his work, accused-applicant entered her room and committed rape with her while extending threats to kill her children and also took obscene photographs of the complainant and threatened to make them viral in case she reported the matter to anyone. That on 18.06.2015, at about 12 noon, accused-applicant again committed rape with the complainant and this act of the accused-applicant continued for six months. That on 20.12.2015 her younger brother in law Naushad came to know about the act of accused-applicant with the complainant and taking advantage of the same, he also committed rape with her forcibly on 13.04.2016. That both accused Shamshad and Naushad continued to commit rape with the complainant. That on 15.08.2016, complainant disclosed to her husband the acts of his younger brothers but he did not pay

Naushad

any heed to her allegations and favored his brothers. That on 06.12.2019 at about 1.30 pm, co-accused Naushad again committed rape with her.

The allegations qua both the accused in this case are along same lines. This is the second application for grant of anticipatory bail before the Sessions Court on behalf of the accused-applicant. The first application for anticipatory bail was dismissed on 7.2.2020, this was infact a joint application preferred on behalf of both the accused. The co-accused Naushad thereafter filed for grant of anticipatory bail before H'ble the High Court of Delhi which was allowed vide order dated 24.8.2020, however in the meanwhile proceedings under section 82 Cr.PC were initiated against the accused-applicant as the accused-applicant neither filed any application alongwith the co-accused before H'ble the High Court of Delhi like his brother, nor joined investigation in this case.

For the purposes of the present application it is pertinent that similar allegations are raised against the co-accused brother of the accused applicant who has now been granted the relief by H'ble the High Court of Delhi. At this stage taking into consideration that the co-accused against whom similar allegations have been raised has already been granted anticipatory bail by H'ble the High Court of Delhi, and the case of the prosecution against the accused-applicant is on no different footing as to that of the co-accused who has been granted the concession and also taking into consideration that process under section 82 Cr.PC came to be issued against the accused-applicant, which is the differentiating element so far as the case for grant of anticipatory bail is concerned, interim protection is

Naushad

being granted to the accused Shamshad with directions to join investigation in case FIR no. 13/2020, on 4.12.2020, 7.12.2020, 10.12.2020, 14.12.2020, 17.12.2020, and as and when called upon to do so by the IO.

For report and consideration put up on 19.12.2020.


(Neelofar Abida Perveen)
ASJ (Central) THC/Delhi
19.12.2020