

State Vs. Furkan @ Mehran

FIR No: 141/20

Under Section: 392/411 IPC

PS: Timarpur

24.07.2020

This is an application under section 439 Cr.P.C for grant of regular bail to accused/applicant.

Present: Sh. Alok Saxena, Ld. APP for the State
Sh. Manoj Kumar Panchal, Ld. Counsel for accused/applicant

Reply by IO filed. Copy of same has already been supplied to other side electronically.

Ld. Counsel has argued that the accused is innocent and has been falsely implicated in the present case. It is further argued that the accused is the sole bread earner of his family and his family is on the verge of starvation due to absence of accused as he is in custody since 21.06.2020. It is argued that accused is no more required for investigation as the recovery has already been effected. It is further argued that accused is first time offender and the investigating agency has falsely implicated him in four other cases after he was apprehended in the present case. On these grounds, Ld. Defence counsel requests for grant of bail to accused.

Per contra, Ld. APP for the State has vehemently opposed the bail application on the ground that allegations against the accused are grave and serious and he may threaten the witnesses, if enlarged on bail.

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I have heard the rival contentions and perused the record.

The case of prosecution in nutshell is that on 21.06.2020 at about 07:40 AM, the accused alongwith other co-accused robbed the complainant of his mobile phone. Both the accused were apprehended at the spot and the robbed phone was also recovered from possession of accused Furkan. The allegations against the accused are grave and serious. The accused has been apprehended at the spot with robbed mobile. The report of IO reveals involvement of the accused in four other cases of similar nature. Therefore, I am of the considered view that if enlarged on bail, accused may commit the similar offence.

The other reasons cited by accused (i.e taking care of his family) for grant of bail does not disclose good ground 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'.

In these circumstances, I am not inclined to grant bail to accused/applicant Furkan @ Mehran. Hence, bail application of accused is hereby dismissed.

Copy of this order be sent to concerned Jail Superintendent for information. Dasti be given through e-mail to defence counsel as well as IO.

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(Anuj Agrawal)
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Tis Hazari Courts, Delhi
24.07.2020

State Vs. Kshitiz Goel

FIR No: 91/20

Under Section: 498A/406/34 IPC

PS: Burari

24.07.2020

This is an application under Section 438 Cr.P.C for grant of anticipatory bail of applicant Kshitiz Goel.

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

Sh. K.K Sharma, Ld. Counsel for applicant/accused

Reply by IO received electronically. Same is supplied to other side electronically .

Part arguments heard. During course of arguments, it is submitted by Ld. APP that accused is yet to join the investigation and future course of investigation shall be decided only once accused joins the investigation and after hearing his version. It is submitted by Ld. Defence counsel that accused was served with notice for joining the investigation on 20.07.2020 only and he is ready to join the investigation, if interim protection is granted to him.

Heard. Considered.

Accused is directed to join the investigation within two weeks from today. Put up for further hearing on 31.08.2020.

The SHO/IO shall file further report on next date of hearing. In the meantime, no coercive steps shall be taken by investigating agency against applicant/accused till next date of hearing. Copy of the order be sent through e-mail to IO/SHO and Ld. Defence counsel.

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24.07.2020

State Vs. Shiv

FIR No: 196/20

Under Section: 376/323/506/34 IPC

PS: Subzi Mandi

24.07.2020

This is an application for grant of anticipatory bail of accused/applicant.

Present: Sh. Alok Saxena, Ld. APP for the State
Ms Charu Kalra, Ld. Counsel for applicant/accused
Sh. Anil Kumar, Ld. Counsel for complainant/prosecutrix
IO SI Rachna is present

The case of prosecution in nutshell is that accused induced the complainant to have sexual intercourse with her for a long period on the false promise of marrying her. It is further alleged that accused is HIV positive and has infected the prosecutrix with said disease by having sexual intercourse with her without disclosing about the said disease. IO submits that during investigation, it has been learnt that accused was in relationship with prosecutrix since last two years and both of them lived together for a considerable period of time during this period.

Part arguments heard.

During course of arguments, it is submitted by Ld. Defence counsel that accused has never infected the prosecutrix with HIV and rather prosecutrix herself is HIV positive since July 2017 as per her medical report. It is further submitted by Ld. Defence Counsel that the investigation in this

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State Vs. Shiv

FIR No: 196/20

Under Section: 376/323/506/34 IPC

PS: Subzi Mandi

24.07.2020

regard may be made by concerned SHO/IO and present application may be decided thereafter. Ld. APP does not oppose the said prayer.

In these circumstances, accused/his counsel is directed to provide the copy of medical report of prosecutrix to IO who shall verify the same as per law and shall file her report on next date of hearing. Put up for further hearing on 08.08.2020.

In the meantime, no coercive steps shall be taken by investigating agency against applicant/accused till next date of hearing.

Copy of the order be sent through e-mail to IO/SHO and Ld. Defence counsel.

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Tis Hazari Courts, Delhi
24.07.2020

State Vs. Sahil

FIR No: 27/20

Under Section: 323/365/376/506 IPC

PS: Subzi Mandi

24.07.2020

This is an application filed under section 439 Cr.P.C for grant of regular bail to applicant/accused.

Present: Sh. Alok Saxena, Ld. APP for the State
Sh. Usman Chaudhary, Ld. Counsel for applicant/accused.

Reply from IO received. Copy of same has been supplied to defence.

This is third bail application filed on behalf of applicant/accused. First of such bail applications was dismissed by Ld. ASJ (on duty) vide detailed order dated 18.02.2020. The second application for grant of bail moved on behalf of applicant was dismissed in default vide order dated 08.06.2020 by Ld. ASJ (on duty) with liberty to file it afresh. The applicant has filed the present application pursuant to said order.

Ld. Defence counsel has vehemently argued for bail on the ground that accused is innocent and falsely implicated in the present case. It is argued that accused never abducted the prosecutrix and she had accompanied the accused with her own volition. It is argued that accused is in custody since long and there is a change of circumstance (since passing of order dated 18.02.2020) as investigation has since been completed and charge sheet has

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State Vs. Sahil

FIR No: 27/20

Under Section: 323/365/376/506 IPC

PS: Subzi Mandi

24.07.2020

been filed.

Per contra, Ld. APP for State has argued for dismissal of bail on the ground that earlier application of accused (for grant of 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 bail application of accused was dismissed by Ld. ASJ vide detailed order dated 18.02.2020 while considering all the contentions which have been raised in present application. Perusal of order dated 18.02.2020 reveals that Ld. ASJ while noting down facts in details has observed as follow:

"Allegations against accused/applicant are that he had forcibly taken away the prosecutrix Agra and thereafter to Chennai where he sexually and physical assaulted her. In her statement under Section 164 Cr.P.C recorded before the Ld. MM, the prosecutrix has reaffirmed the allegations against the applicant/accused and there is no reason to disbelieve her at this stage. Keeping in view the seriousness of the allegations involved, I am not inclined to intervene. The bail application is hereby Dismissed."

Therefore, it is evident that the earlier application moved on behalf of accused/applicant was dismissed by Ld. ASJ keeping in view seriousness of the offences. The said ground still subsists. Mere filing of charge

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State Vs. Sahil

FIR No: 27/20

Under Section: 323/365/376/506 IPC

PS: Subzi Mandi

24.07.2020

sheet cannot be good ground to enlarge accused on bail as it is evident that the allegations against accused have got substantiated during course of investigation resulting in filing of charge sheet against him.

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 :

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State Vs. Sahil

FIR No: 27/20

Under Section: 323/365/376/506 IPC

PS: Subzi Mandi

24.07.2020

"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.

In view of the aforesaid discussion, **application for grant of regular bail moved on behalf of the applicant stands dismissed.** Copy of this order be sent to Ld. Area MM/Ld. Defence Counsel/SHO/IO and concerned jail superintendent through e-mail.

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24.07.2020

State Vs. Neeraj Tyagi @ Neha

FIR No: 254/20

Under Section: 376/354D/506 IPC

PS: Burari

24.07.2020

This is an application under Section 438 Cr.P.C for grant of anticipatory bail to applicant/accused.

Present: Sh. Alok Saxena, Ld. APP for the State
Dr. M.K Gahlot, Ld. Counsel for accused/applicant
WSI Sushila in person.

Reply filed by IO. Same is supplied to other side electronically.

The allegations against the applicant (as reported by IO) are that she being wife of main accused, leaked the audio clip of the conversation held between her husband and prosecutrix. As per IO, the custodial interrogation of applicant is not required, however, she may be directed to join the investigation.

During course of arguments, despite repeated queries of this court, IO has failed to point out the exact provisions of penal law, which have been invoked against the applicant/accused. At this stage, Ld. APP for State seeks some time to clarify in this regard and file fresh report through concerned SHO/IO. In these circumstances and at the request of Ld. APP for the State, put up for further hearing on 17.08.2020.

In the meantime, no coercive steps shall be taken by investigating agency against applicant/accused till next date of hearing.

Copy of the order be sent through e-mail to IO/SHO and Ld. Defence counsel.

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State Vs. Akhilesh

FIR No: 120/20

Under Section: 308/34/188/269/270 IPC

PS: Timarpur

24.07.2020

This is an application under Section 438 Cr.P.C for grant of anticipatory bail to the applicant/accused.

Present: Sh. Alok Saxena, Ld. APP for the State
Sh. Abhishek Rana, Ld. Counsel for accused/applicant.
IO ASI Bhushan is also present.

Reply from IO received. Same is supplied to defence electronically.

Reply of IO perused. As per same, accused was initially apprehended as a Juvenile, however, later on during investigation, he was found to be major as per school record. It is reported by IO that accused is yet to join the proceedings before concerned Juvenile Justice Board (JJB).

At this stage, it is submitted by Ld. Defence counsel that applicant/accused is ready to join the proceedings before concerned JJB within one week from today, however, till then interim protection may be granted to him.

Ld. APP for the State submits that the apprehension of applicant are misplaced as order regarding age inquiry is yet to be passed by concerned JJB and till then no coercive steps are proposed to be taken against the applicant/accused.

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State Vs. Akhilesh

FIR No: 120/20

Under Section: 308/34/188/269/270 IPC

PS: Timarpur

24.07.2020

Before proceeding further, Ld. Defence counsel has been asked to satisfy about maintainability of present application in light of the fact that accused is yet to be declared a major by concerned JJB. Ld. Counsel seeks some time to address arguments in this regard. In these circumstances and at request of defence, put up further arguments on 11.08.2020.

In the meantime, concerned JJB is requested to expedite the '**age determination proceedings**' of the applicant/accused and to conclude the same on an early date, preferably within two weeks from receipt of this order.

Now to come up on 11.08.2020.

Copy of the order be sent through e-mail to IO/SHO/ Ld. Defence counsel and concerned JJB for information.

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24.07.2020

State Vs. Naresh Goel & Sushma Goel

FIR No: 91/20

Under Section: 498A/406/34 IPC

PS: Burari

24.07.2020

This is an application under Section 438 Cr.P.C for grant of anticipatory bail of applicants Naresh Goel and Sushma Goel.

Present: Sh. Alok Saxena, Ld. APP for the State
Sh. K.K Sharma, Ld. Counsel for applicant/accused

Reply by IO received electronically. Same is supplied to other side electronically .

Part arguments heard. During course of arguments, it is submitted by Ld. APP that accused are yet to join the investigation and future course of investigation shall be decided only once accused join the investigation and after hearing their version. It is submitted by Ld. Defence counsel that accused were served with notice for joining the investigation on 20.07.2020 only and they are ready to join the investigation, if interim protection is granted to them.

Heard. Considered.

Accused are directed to join the investigation within two weeks from today. Put up for further hearing on 31.08.2020. The SHO/IO shall file further report on next date of hearing. In the meantime, no coercive steps shall be taken by investigating agency against applicants/accused till next date of hearing.

Copy of the order be sent through e-mail to IO/SHO and Ld. Defence counsel.

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(Anuj Agrawal)
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