

**SC No.: 453/2019**  
**FIR No. 61/2015**  
**PS Nabi Karim**  
**State Vs Mustafa**

**23.11.2020**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

***In view of the above-mentioned orders/directions, file is taken up through Webex.***

**Undersigned is also discharging work of Bail Roster duty.**

Present: Mr. Pawan Kumar, Learned Addl.PP for State through VC.  
Mr. S.D. Pushkar, learned counsel for accused through VC alongwith with  
accused through VC on bail.

**Put up for arguments in terms of previous order for 23/01/2021.**

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KUMAR  
KASHYAP  
(Naveen Kumar Kashyap)  
ASJ-04/Central/23.11.2020

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**SC No.: 27747/2016**  
**FIR No.: 31/2007**  
**PS Nabi Karim**  
**State Vs Rakesh Arora Etc.**

**23.11.2020**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

***In view of the above-mentioned orders/directions, file is taken up through Webex. Undersigned is also discharging work of Bail Roster duty.***

Present: Mr. Pawan Kumar, Learned Addl.PP for State through VC.  
Mr. Ramesh Kumar, learned counsel for all the three accused through VC.  
All the three accused are stated to be on bail.

**Put up for PE in terms of previous order for 19/01/2021.** Issue notice to two of the material witnesses for the next date of hearing. This is one of the oldest matters pending in this Court. As such, earliest possible next date of hearing is given in the present case having regard to the present circumstances.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/23.11.2020**

**SC No.: 637/2017**  
**FIR No. 127/2017**  
**PS Hazarat Nizamuddin**  
**State Vs Raju**

**23.11.2020**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

***In view of the above-mentioned orders/directions, file is taken up through Webex.***

**Undersigned is also discharging work of Bail Roster duty.**

Present: Mr. Pawan Kumar, Learned Addl.PP for State through VC.  
None.

In the interest of justice, no adverse order is passed in the present case. Put up for appearance of accused. Issue production warrant for the accused if any in JC for the next date of hearing.

**Put up for PE in terms of previous order for 30/03/2021.** Also issue notice to two of the material witnesses for the next date of hearing.

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Date: 2020.11.23 17:38:41 +05'30'

**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/23.11.2020**

**SC No. 462/2019  
FIR no. 210/2018  
PS Prasad Nagar  
State Vs Ashu @ Atta**

**23.11.2020**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

***In view of the above-mentioned orders/directions, file is taken up through Webex.  
Undersigned is also discharging work of Bail Roster duty.***

Present: Mr. Pawan Kumar, Learned Addl.PP for State through VC.  
None.

In the interest of justice, no adverse order is passed in the present case. Put up for appearance of accused. Issue production warrant for the accused if any in JC for the next date of hearing.

**Put up for PE in terms of previous order for 30/03/2021.** Also issue notice to two of the material witnesses for the next date of hearing.

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**(Naveen Kumar Kashyap)  
ASJ-04/Central/23.11.2020**

At this stage, accused Ashu @ Atta as well as Amar produced from JC Jail No.4 Tihar Jail. They are apprised of the order passed in the morning.

Put up on the date already fixed for 30/03/2021.

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**(Naveen Kumar Kashyap)  
ASJ-04/Central/23.11.2020**

**CR No 199/2019**  
**Naresh Kumar @ Tau Vs State**

**23.11.2020**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

***In view of the above-mentioned orders/directions, file is taken up through Webex.***

**Undersigned is also discharging work of Bail Roster duty.**

Present:           None for the revisionist.  
                  Mr. Pawan Kumar, Learned Addl.PP for State / respondent through VC.

In the interest of justice, no adverse order is passed in the present case. Put up for appearance of parties.

**Put up for 29/03/2021.**

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/23.11.2020**

**CR No.:286/2019**  
**Love Kumar @Rahul Vs State**

**23.11.2020**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

***In view of the above-mentioned orders/directions, file is taken up through Webex.***

**Undersigned is also discharging work of Bail Roster duty.**

Present: None for the revisionist.

Mr. Pawan Kumar, Learned Addl.PP for State / respondent through VC.

In the interest of justice, no adverse order is passed in the present case. Put up for appearance of parties.

**Put up for 29/03/2021.**

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/23.11.2020**

**CA No.: 457/2019**  
**Manjeet Singh Vs Pooja Finlease Ltd.**

**23.11.2020**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

***In view of the above-mentioned orders/directions, file is taken up through Webex.***

**Undersigned is also discharging work of Bail Roster duty.**

Present: Mr. Ravinder, learned counsel for appellant through VC.  
None for respondent / original complainant Pooja Finlease Ltd.

It is claimed that matter is settled out of Court and accused / applicant is making part payments each as per such settlement.

Issue Court notice through electronic mode or otherwise as per present directions to the respondent as well as to the counsel for the respondent for the next date of hearing.

**Put up for 14/12/2020.**

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/23.11.2020**

**CA No. 360/2018**  
**VCI Hospitality Ltd. & Anr Vs Income Tax Officer**

**23.11.2020**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

***In view of the above-mentioned orders/directions, file is taken up through Webex.***

**Undersigned is also discharging work of Bail Roster duty.**

Present: Mr. Vikas Sharma, learned counsel for the appellant through VC.  
Mr. Manmeet Singh, learned counsel for respondent / ITO through VC.

Part arguments heard in detail.

Put up for further proceedings / appropriate orders for **01/12/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/23.11.2020**



**CA No.: 323/2019  
Rajni Vs The State**

**23.11.2020**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

***In view of the above-mentioned orders/directions, file is taken up through Webex.***

**Undersigned is also discharging work of Bail Roster duty.**

Present:       None for the appellant.  
                  Mr. Pawan Kumar, Learned Addl.PP for State through VC.

Put up for further appropriate proceedings / appropriate orders for **25/11/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/23.11.2020**

**SC: 299/2018**  
**State v. Kamal**  
**FIR No.: 24/2018**  
**PS: Nabi Karim**

**23.11.2020**

*File taken up today in terms of directions received vide letter No.:417/DHC/2020 of the Registrar General, Delhi High Court and Circular No.: 23456-23616/DJ(HQ)/Covid lockdown/Physical Courts Roster/2020 dated 30/08/2020 of Learned District & Sessions Judge(HQs), Delhi.*

***In view of the above-mentioned orders/directions, file is taken up through Webex.***

**Undersigned is also discharging work of Bail Roster duty.**

Present: Sh. Pawan Kumar, Ld. Addl. PP for the state through VC.  
Accused Kamal produced from Rohini Jail through VC.

**Put up for PE in terms of previous order for 29.03.2021.**

Issue P/w of the accused through VC for next date of hearing.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/23.11.2020**

: 1 :

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

**Bail Application: 1910/2020**

**State v. Virender Kumar**

**FIR No.88/2020**

**PS: Sarai Rohilla**

**U/s: 392/397/452/506 IPC**

23.11.2020

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

Ld. Counsel for applicant through VC.

Vide this order the interim bail application dated  
18.11.2020 of applicant / accused Virender Kumar is disposed of.

In nutshell it is submitted that marriage of real sister  
namely Yogita of accused is going to be solemnized on 05.12.2020.  
That ritual will be starting from 30.11.2020. That father of the accused  
has already expired. Being brother of the sister, accused has to  
perform all the rituals. As such, it is prayed that he be granted interim  
bail for a period of one month.

Factum of marriage of sister of accused is verified by IO  
and report is filed in this regard.

I have heard both the sides.

Having regard to nature of allegations against the

: 2 :

present accused, stage of the trial and the reason for moving present interim bail application, this court is not inclined to grant the interim bail as prayed in the present application.

*But such accused Virender Kumar is hereby granted custody parole for six hours for 05.12.2020 excluding traveling time to visit to attend such last rites / ceremonies.*

A copy of this order be sent to concerned Jail Superintendent with directions to make necessary arrangements for visit of the applicant/accused Virender Kumar on 05.12.2020 at Bhagat Singh Park, Kirti Nagar, Near Kirti Nagar Police station, Delhi for six hours, as per rules.

Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Copy of this order be sent to Jail Superintendent concerned through electronic mode.

With these observations the present application is disposed of.

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(Naveen Kumar Kashyap)  
ASJ-04/Central/THC  
23.11.2020

State Vs Sunder Etc.  
(Application of Ranjeet @ Nandu)  
FIR No. 252/2016  
P. S Kotwali

**23.11.2020**

**This court is also discharging bail roster duty.**

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

In view of the order dated 05/11/2020 in WP (C) No. 3080/2020 titled “*Court On its Own Motion Vs Govt. of NCT of Delhi & Anr*”, particularly para ‘6’ thereof, put up for further appropriate orders / directions for **08/12/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/23.11.2020**

**CR No. 253/2019**  
**Punit Chadha Vs State**

**23.11.2020**

**This court is also discharging bail roster duty.**

Present: Mr. Manish Gosain, learned counsel for the revisionist Punit Chadha through VC.

Mr. Pawan Kumar, learned Addl.PP for State through VC.

After some arguments, learned counsel for the accused has submitted that present application for withdrawal be kept pending for appropriate proceedings / orders for **25/11/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/23.11.2020**

**State Vs Fareed Ahmed**  
**(Application for bail of accused Fareed Ahmed)**  
**FIR No. 266/2014**  
**PS Chandni Mahal**

**23.11.2020**

**This court is also discharging bail roster duty.**

Present: Mr. Pawan Kumar, learned Addl.PP for State through VC.  
Mr. Harsh Hardy, learned counsel for accused through VC.

Arguments heard in detail.

Put up for orders at 4:00 PM.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/23.11.2020**

**At 4:00 PM**

Case file is required for orders.

As such, put up on physical day of hearing of this court i.e. for **25/11/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/23.11.2020**

**BAIL APPLICATION**

**- State v. Shakir  
(applicant Yunus)  
FIR No. : 142/2017  
PS: Lahori Gate  
U/S: 395,397,411 IPC**

**23.11.2020**

**Undersigned is also discharging bail roster duty.**

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.  
Sh. Varun Sakuja, Ld. Counsel for applicant/accused through VC.

Reply already filed by IO on last date of hearing. Copy of the same be supplied to counsel for accused during course of the day through electronic mode.

Part arguments in detail heard.

**Put up for further arguments including from Ld. Addl. PP for the state.**

**At request, put up on 14.12.2020.**

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**(Naveen Kumar Kashyap)**

**ASJ-04/Central/23.11.2020**



**MISC APPLICATION**

**\_ State v. Ashu @ Atta**  
**FIR No. : 210/2018**  
**PS: Prasad Nagar**

**23.11.2020**

**Undersigned is also discharging bail roster duty.**

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.  
None for applicant.

**Put up for appearance of applicant and appropriate orders on 25.11.2020.**

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**(Naveen Kumar Kashyap)**

**ASJ-04/Central/23.11.2020**

**BAIL APPLICATION**

**\_ State v. Mukesh @ Lamboo  
(Applicant Ravi @ Vicky) @ Titi)  
FIR No. : 200/2010  
PS: Pahar Ganj**

**23.11.2020**

**Undersigned is also discharging bail roster duty.**

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.  
None for applicant.

Issue notice to IO to file reply.

Put up for reply, arguments and appropriate orders for 11.12.2020.

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**(Naveen Kumar Kashyap)**

**ASJ-04/Central/23.11.2020**

**BAIL APPLICATION**

**\_ State v. Salman @ Bhuri**  
**FIR No. : 329/2017**  
**PS: Subzi Mandi**

**23.11.2020**

**Undersigned is also discharging bail roster duty.**

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.  
Sh. Vipin Chaudhary, Ld. Counsel for applicant/accused  
through VC.

This is a regular bail application dated 21.11.2020.

Issue notice of the same to IO.

Put up for reply, arguments and appropriate orders including regarding the  
earlier bail application, if any moved by such accused in this matter, on **11.12.2020**.

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**(Naveen Kumar Kashyap)**

**ASJ-04/Central/23.11.2020**

**BAIL APPLICATION**

**\_ State v. Shakeel  
FIR No. : 142/2017  
PS: Lahori Gate**

**23.11.2020**

**Undersigned is also discharging bail roster duty.**

Present: Mr. Pawan Kumar ,Ld. Addl. PP for the State through VC.  
Sh. Ayub Ahmad Qureshi, Ld. Counsel for applicant/accused  
through VC.

Further arguments heard in detail.

It is stated that co-accused namely Jogender @ Jugnu and Bijender are granted regular bail and one more accused is also granted regular bail.

Put up for clarifications, if any and orders with connected matter on

**14.12.2020.**

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**(Naveen Kumar Kashyap)**

**ASJ-04/Central/23.11.2020**

**Bail Matters No.: 1574/2020  
State Vs Gautam  
FIR No.: 32/2020  
PS: Kamla Market**

**23/11/2020**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.  
None for the applicant.

Put up for appearance of counsel for the applicant and for arguments for

**09/12/2020.**

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**(Naveen Kumar Kashyap)  
ASJ-04/Central/23.11.2020**


At 2:15 PM

At this stage Mr. Wasim Khan, learned counsel for the applicant has appeared and states that by mistake he could not join through VC in morning.

Heard.

As such, at request, put up for arguments in terms of previous order for tomorrow i.e. **24/11/2020. Earlier date of 09/12/2020 is cancelled accordingly.**

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**(Naveen Kumar Kashyap)  
ASJ-04/Central/23.11.2020**



**Bail Matters No.: 1593/2020**  
**State Vs Naveen Giri**  
**FIR No.:271/2020**  
**PS: Prashad Nagar**

**23/11/2020**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.  
Complainant with counsel Mr. Roshan through VC.  
Mr. Vijay Goswami, learned counsel for accused through VC.  
IO also present through VC.

Further arguments heard in detail.

It is stated by the IO that certain articles are returned but it is claimed by the complainant that some articles are damaged. Further it is claimed that jewelry articles are not returned till date.

IO to file further status report regarding remaining articles which as per investigation were handed over to the accused side and still not returned by the accused by the next date of hearing with copy to complainant and accused side.

Put up for further arguments and orders on this bail application for **04/12/2020**.

Interim protection to continue till the next date of hearing in terms of previous order.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/23.11.2020**

**Bail Matters No.:1793/2020  
State Vs Dinesh Kumar  
FIR No.:391/2020  
PS:Kamla Market**

**23/11/2020**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.  
Mr. Pankaj Tomar, learned counsel for the accused through VC.  
ASI Ganesh Singh also present through VC.

Arguments in detail heard.

It is stated by the IO that applicant did not join investigation since last date of hearing. Further it is claimed that money in question is not of government press but some money related society.

Put up for further arguments and appropriate proceedings. In the meanwhile accused is directed to join investigation and provide all necessary support and material and cooperate with the investigation.

Put up for **10/12/2020**. In the meanwhile, interim protection to continue till next date of hearing. It is further stated by the counsel for the accused that accused has joined the investigation as per the directions in the last date of hearing.

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**(Naveen Kumar Kashyap)  
ASJ-04/Central/23.11.2020**



**Bail Matters No.: 1942/2020**  
**State Vs Mehatbuddin @ Babli**  
**FIR No.: 189/2020**  
**PS: Hauz Qazi**

**23/11/2020**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.  
Ms. Priti Gupta, learned counsel for the applicant through VC.  
Mr. Sanjay Sharma, learned counsel for complainant through VC.

Arguments in detail heard.

Put up for orders for **24/12/2020**. Further, IO to appear in person in morning session with case file and further to explain under what provision of Cr.PC, notice dated 20/11/2020 is issued to the applicant / accused. Notice be issued forthwith through Naib Court concerned.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/23.11.2020**

**Bail Matters No.: 1944/2020**  
**State Vs Shakeel Ahmad**  
**FIR No.: 189/2020**  
**PS: Hauz Qazi**

**23/11/2020**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.  
Ms. Priti Gupta, learned counsel for the applicant through VC.  
Mr. Sanjay Sharma, learned counsel for complainant through VC.

Arguments in detail heard.

Put up for orders for **24/12/2020**. Further, IO to appear in person in morning session with case file and further to explain under what provision of Cr.PC, notice dated 20/11/2020 is issued to the applicant / accused. Notice be issued forthwith through Naib Court concerned.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/23.11.2020**



**Bail Matters No.:1899/2020**  
**State Vs Love**  
**FIR No.: 492/2020**  
**PS: Karol Bagh**

**23/11/2020**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.  
None for the applicant.

Certain clarification is required for orders.

As such, put up for clarification with connected matters for **27/11/2020**.

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**(Naveen Kumar Kashyap)**  
**ASJ-04/Central/23.11.2020**

**Bail Application No.: 1083/2020**  
**Bail Application No.: 1084/2020**  
**Bail Application No.: 1085/2020**  
**Bail Application No.: 1086/2020**  
**Bail Application No.: 1087/2020**  
**Bail Application No.: 1089/2020**

**State v. Kamal Bhandari**  
**State v. Namita Dilawari**  
**State v. Hemant Kumar**  
**State v. Ashok Kumar**  
**State v. Hitesh**  
**State v. Nirmal Arora**

**FIR no.: 287/2020**  
**PS: Sarai Rohilla**

**23.11.2020**

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.  
None for applicant.

Put up for appearance of counsel for applicants and purpose fixed on

**08.12.2020.**

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**(NAVEEN KUMAR KASHYAP)**  
**Additional Sessions Judge-04/Central**  
**23.11.2020**

**Bail Application No.: 1449/2020**

**State v. Rajesh @ Barfi**

**FIR no.: 340/2012**

**23.11.2020**

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.  
Sh. Akhil Tarun Goel, Ld. Counsel for applicant.

Issue fresh notice to Ahlmad of the trial court concerned for sending trial court record. Notice be issued today itself.

Put up for orders/clarifications, if any on **25.11.2020**.

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**(NAVEEN KUMAR KASHYAP)**  
**Additional Sessions Judge-04/Central**  
**23.11.2020**

**M CrI.: 179/2020**

**State v. Shailender Prasad**

**FIR no.: 235/2020**

**PS: Kamla Market**

**23.11.2020**

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.  
Ms. Archana Sharma, Ld. Counsel for applicant through VC.

This is an application for early hearing. Reasons stated in the application are heard. Having regard to the pending matters in this court including bail matters and bail roster matters assigned to this court, it is not possible to pre-poner the next date of hearing.

**With these observations, present application is dismissed.**

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**Additional Sessions Judge-04/Central**  
**23.11.2020**

**Bail Application.: 1941/2020**

**State v. Jai Prakash Meena  
FIR no.: 11742/2020  
PS: Rajinder Nagar**

**23.11.2020**

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.  
None for applicant.

Put up for appearance of learned counsel for accused and arguments in terms of previous order for **10.12.2020**.

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**(NAVEEN KUMAR KASHYAP)  
Additional Sessions Judge-04/Central  
23.11.2020**

**At 12.35 pm**

**At this stage,**

Ld. Counsel for accused appeared.

Arguments heard. Reply filed.

Put up for orders/clarifications, if any on **24.11.2020 at 4 pm**.

**Earlier date 10.12.2020 stands cancelled.**

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**(NAVEEN KUMAR KASHYAP)  
Additional Sessions Judge-04/Central  
23.11.2020**



**Bail Application.:1898/2020**

**State v. Pradeep @ Sooraj  
FIR no.: 668/2020  
PS: Sarai Rohilla**

**23.11.2020**

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.  
None for applicant.

Further, reply not filed by IO nor he appeared today. As such, issue show cause notice to IO through SHO concerned. He is directed to file reply in terms of order dated 18.11.2020.

Put up for appearance of learned counsel for accused, reply , arguments and appropriate orders in terms of previous order for **10.12.2020**.

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Additional Sessions Judge-04/Central  
23.11.2020**

**At 1.20 pm**

**At this stage,**

Sh. Aman Usman, Ld. Counsel appeared.

Arguments in detail heard.

IO be summoned in person through VC with case filed on next date of hearing.

**Put up for further arguments on date already fixed on 10.12.2020.**

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Additional Sessions Judge-04/Central  
23.11.2020**

**Bail Application.:1911/2020**

**State v. Karan  
FIR no.: 668/2020  
PS: Sarai Rohilla**

**23.11.2020**

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.  
Sh. Mahesh Kumar, Ld. counsel for applicant through VC.

It is stated that it is a connected matter with “state v. Pradeep” which is also listed for today.

Part arguments heard.

Issue notice to IO to appear with case file regarding clarifications of the role of applicants and other related matters, an earliest possible next date of hearing i.e. 10.12.2020 is given. As the other matter pending in this court including Bail roster matters, an earlier date to that is not possible.

**Put up on 10.12.2020.**

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**(NAVEEN KUMAR KASHYAP)  
Additional Sessions Judge-04/Central  
23.11.2020**

**Bail Application.:1945/2020**

**State v. Renu Singh  
FIR no.: 223/2020  
PS: Lahori Gate**

**23.11.2020**

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.  
Ld. counsel for applicant through VC.

Reply filed by IO.

Arguments in detail heard on the present anticipatory bail application filed by applicant Mrs. Renu Singh.

As per the allegations of prosecution, present accused received sum of Rs. 10 lacs as disclosed by the main accused/husband of present applicant to police during his custody. As such, the allegations are for the offence u/s 411 IPC which is punishable upto three years. As such, having regard to the fact that accused is a female having three children and the maximum punishment prescribed, and having her background, she is directed to join investigation and fully cooperate with the same as and when so directed by IO till next date of hearing. Further, IO is directed not to take any coercive steps against her till next date of hearing only.

**Put up for 14.12.2020 for further arguments/filing of further status report by the IO and appropriate order.**

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**(NAVEEN KUMAR KASHYAP)  
Additional Sessions Judge-04/Central  
23.11.2020**

**Anticipatory Bail**

**Bail Matters No.: 1523, 1524, 1525 /2020**  
**State Vs Parveen @ Kavita, Gulshan Kumar & Rahul**  
**FIR No. :205/2020**  
**PS: I.P. Estate**  
**U/S: 406, 420, 34 IPC**

**23/11/2020**

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State through VC.  
Mr. Naresh Kumar Talwar, learned counsel for Accused through VC.  
IO also present through VC.  
Mr. Tarun Sharma, learned counsel for complainant present through VC.

This is further to order dated 20/10/2020 in which contentions of both sides are already recorded.

Today further arguments heard from both sides in detail.

From arguments, it is clear that parties entered into an oral agreement for to sell a floor / flat in the building in question. As per the investigation of IO, such property is not transferable / sale-able at all .Still accused Gulshan and Rahul received a sum of Rs.20 lacs and Rs. 26 lacs respectively ,through banking transactions for the same from the complainant.

Certain observation already made in the order dated 20/10/2020.Further having regard to incriminating material on record and the arguments addressed, this court is not inclined to grant the relief sought in the present application as far as accused Gulshan Kumar and Rahul are concerned. With these observation, their applications are dismissed.

**Bail Matters No.: 1523, 1524, 1525 /2020**  
**State Vs Parveen @ Kavita, Gulshan Kumar & Rahul**  
**FIR No. :205/2020**  
**PS: I.P. Estate**  
**U/S: 406, 420, 34 IPC**

But as far as accused Parveen @ Kavita is concerned, there are only general allegations against her that scooty was purchased in her name for which payment is made by the present complainant .But it appears that such scooty is not purchased at all in the name of such accused / applicant .Rest is matter of investigation and trial. As such, she be directed to be released on bail in the event of her arrest on furnishing of personal bond and surety bond in the sum of Rs. 30,000/-, subject further following conditions.

- i) That she will appear before Trial Court as and when called as per law.*
- ii) She will not indulge in any kind of activities which are alleged against her in the present case.*
- iii) That she will not leave India without permission of the Court.*
- iv) She will not contact or threaten the witness or tampering with evidence.*

It is clarified that in case if the applicant/ 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.

*Before parting, it would not be out of place to note that offences alleged so far are punishable upto 7 years. As such, IO is duty bound to comply with the directions of Hon'ble Supreme Court relating to arrest / non arrest in the case of Arnesh Kumar.*

With these observations present bail application is disposed of. Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Further copy of this order be sent to Jail Superintendent concerned, IO and SHO.

Bail Matters No.: 1523, 1524, 1525 /2020  
State Vs Parveen @ Kavita, Gulshan Kumar & Rahul  
FIR No. :205/2020  
PS: I.P. Estate  
U/S: 406, 420, 34 IPC

The observations made in the present anticipatory bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.

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**(NAVEEN KUMAR KASHYAP)**  
**ASJ-04(Central/Delhi/2/11/2020)**

**Bail Matters No.: 1523, 1524, 1525 /2020**  
**State Vs Parveen @ Kavita, Gulshan Kumar & Rahul**  
**FIR No. :205/2020**  
**PS: I.P. Estate**  
**U/S: 406, 420, 34 IPC**

**ANTICIPATORY Bail Application No.:1818 /2020**

**State v. Amit Yadav**  
FIR no. : 151/2017  
PS: Lahori Gate  
U/S:420,467,468,471 IPC

23.11.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.  
Sh. Parveen Pachori, Learned counsel on behalf of main  
counsel Sh. Manoj Yadav, Ld. Counsel for applicant /  
accused through VC.  
SI G.N. Tiwari also present through VC.

1. Vide this order, present bail application dated 06.11.2020 u/s 438 Cr.PC filed for anticipatory bail by accused / applicant Amit Yadav is disposed of.

2. In nut shell, it is argued on behalf of the accused/applicant that he is falsely implicated in the present case. That he is the only loan agent and did not get any monetary benefit in any manner in the present case. Nor he forged any document. As such, no such offence can be alleged against him. That he did not receive any summon regarding the present case and his father received a notice u/s 82 Cr.P.C. and as such, he came to know about the present case. It is further argued that matter is already compromised between complainant and the accused and complainant even received monetary benefit. That custodial interrogation of present accused is not required at all. That he met with an accident and is bed ridden and advised for bed rest w.e.f. 08.09.2020. That he apprehends his arrest in the present case without any legal sustainable reason. As such, he has moved the present bail application. That he is ready to join the investigation as and when so directed.

3. On the other hand, a reply filed by IO and as also argued by Ld. Addl. PP for the state. It is stated that there is a deep rooted conspiracy to commit the cheating and forgery in question. That present accused took

the documents from one Sh. Dashrath Tiwari on the pretext providing him loan and getting open a bank account in ICICI Bank after putting his photograph and signatures. That he actually participated in the offence in question. That he was not found when earlier warrant was issued against him. That his custodial interrogation is required to unearth the conspiracy in question. As such, present anticipatory bail application is opposed.

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

5. At this stage it may be noted that in the case of **Bhadresh Bipinbhai Sheth Vs. State Of Gujarat & Another**( Criminal Appeal Nos. 1134-1135 Of 2015, Arising Out Of Special Leave Petition (Crl.) Nos. 6028-6029 Of 2014), Hon'ble SC discussed and reviews the law relating to section 438 Cr.P.C.

6. A judgment which needs to be pointed out is a Constitution Bench Judgment of this Court in the case Gurbaksh Singh Sibbia and Other vs. State of Punjab( 1980 AIR 1632 ; 1980 SCR(3) 383), The Constitution Bench in this case emphasized that provision of anticipatory bail enshrined in [Section 438](#) of the Code is conceptualised under [Article 21](#) of the Constitution which relates to personal liberty. Therefore, such a provision calls for liberal interpretation of [Section 438](#) of the Code in light of [Article 21](#) of the Constitution. The Code explains that an anticipatory bail is a pre- arrest legal process which directs that if the person in whose favour it is issued is thereafter arrested on the accusation in respect of which the direction is issued, he shall be released on bail. The distinction between an ordinary order of bail and an order of anticipatory bail is that whereas the former is granted after arrest and therefore means release from the custody of the police, the latter is granted in anticipation of arrest and is therefore, effective at the very moment of arrest. A direction under [Section 438](#) is therefore intended to confer conditional immunity from the 'touch' or confinement contemplated by [Section 46](#) of the Code. The essence of this provision is brought out in the following manner:

“26. We find a great deal of substance in Mr Tarkunde's submission that since denial of bail amounts to deprivation of personal liberty, the court should lean against the imposition of



unnecessary restrictions on the scope of [Section 438](#), especially when no such restrictions have been imposed by the legislature in the terms of that section. [Section 438](#) is a procedural provision which is concerned with the personal liberty of the individual, who is entitled to the benefit of the presumption of innocence since he is not, on the date of his application for anticipatory bail, convicted of the offence in respect of which he seeks bail. An over-generous infusion of constraints and conditions which are not to be found in [Section 438](#) can make its provisions constitutionally vulnerable since the right to personal freedom cannot be made to depend on compliance with unreasonable restrictions. The beneficent provision contained in [Section 438](#) must be saved, not jettisoned. No doubt can linger after the decision in [Maneka Gandhi v. Union of India](#), (1978) 1 SCC 248, that in order to meet the challenge of [Article 21](#) of the Constitution, the procedure established by law for depriving a person of his liberty must be fair, just and reasonable. [Section 438](#), in the form in which it is conceived by the legislature, is open to no exception on the ground that it prescribes a procedure which is unjust or unfair. We ought, at all costs, to avoid throwing it open to a Constitutional challenge by reading words in it which are not to be found therein.”

7. Though the Court observed that the principles which govern the grant of ordinary bail may not furnish an exact parallel to the right to anticipatory bail, still such principles have to be kept in mind, namely, the object of bail which is to secure the attendance of the accused at the trial, and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise, bail is not to be withheld as a punishment. The Court has also to consider whether there is any possibility of the accused tampering with evidence or influencing

witnesses etc. Once these tests are satisfied, bail should be granted to an under trial which is also important as viewed from another angle, namely, an accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. Thus, grant or non-grant of bail depends upon a variety of circumstances and the cumulative effect thereof enters into judicial verdict. The Court stresses that any single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail. After clarifying this position, the Court discussed the inferences of anticipatory bail in the following manner:

“31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant’s presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and “the larger interests of the public or the State” are some of the

considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in [The State v. Captain Jagjit Singh](#), AIR 1962 SC 253 : (1962) 3 SCR 622 : (1962) 1 Cri LJ 216, which, though, was a case under the old [Section 498](#) which corresponds to the present [Section 439](#) of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.”

8. It is pertinent to note that while interpreting the expression “may, if it thinks fit” occurring in [Section 438\(1\)](#) of the Code, the Court pointed out that it gives discretion to the Court to exercise the power in a particular case or not, and once such a discretion is there merely because the accused is charged with a serious offence may not by itself be the reason to refuse the grant of anticipatory bail if the circumstances are otherwise justified. At the same time, it is also the obligation of the applicant to make out a case for grant of anticipatory bail. But that would not mean that he has to make out a “special case”. The Court also remarked that a wise exercise of judicial power inevitably takes care of the evil consequences which are likely to flow out of its intemperate use.

9. Another case to which can be referred to is the judgment of a Division Bench of this Court in the case of [Siddharam Satlingappa Mhetre v. State of Maharashtra and Others](#)( SLP(CRL.) 7615/2009 DATED 02-12-2021).This case lays down an exhaustive commentary of [Section 438](#) of the Code covering, in an erudite fashion, almost all the aspects and in the process relies upon the aforesaid Constitution Bench judgment in

Gurbaksh Singh's case. In the very first para, the Court highlighted the conflicting interests which are to be balanced while taking a decision as to whether bail is to be granted or not, as is clear from the following observations:

“1. ....This appeal involves issues of great public importance pertaining to the importance of individual's personal liberty and the society's interest. Society has a vital interest in grant or refusal of bail because every criminal offence is the offence against the State. The order granting or refusing bail must reflect perfect balance between the conflicting interests, namely, sanctity of individual liberty and the interest of the society. The law of bails dovetails two conflicting interests, namely, on the one hand, the requirements of shielding society from the hazards of those committing crimes and potentiality of repeating the same crime while on bail and on the other hand, absolute adherence to the fundamental principle of criminal jurisprudence regarding presumption of innocence of an accused until he is found guilty and the sanctity of individual liberty.....”

10. The principles which can be culled out can be stated as under:

(i) The complaint filed against the accused needs to be thoroughly examined, including the aspect whether the complainant has filed a false or frivolous complaint on earlier occasion. If the connivance between the complainant and the investigating officer is established then action be taken against the investigating officer in accordance with law.

(ii) The gravity of charge and the exact role of the accused must be properly comprehended. Before arrest, the arresting officer must record the valid reasons which have led to the arrest of the accused in the case diary. In exceptional cases, the reasons could be recorded immediately after the arrest, so that while dealing with the bail application, the remarks

and observations of the arresting officer can also be properly evaluated by the court.

(iii) It is imperative for the courts to carefully and with meticulous precision evaluate the facts of the case. The discretion to grant bail must be exercised on the basis of the available material and the facts of the particular case. In cases where the court is of the considered view that the accused has joined the investigation and he is fully cooperating with the investigating agency and is not likely to abscond, in that event, custodial interrogation should be avoided. A great ignominy, humiliation and disgrace is attached to arrest. Arrest leads to many serious consequences not only for the accused but for the entire family and at times for the entire community. Most people do not make any distinction between arrest at a pre-conviction stage or post-conviction stage.

(iv) There is no justification for reading into [Section 438 CrPC](#) the limitations mentioned in [Section 437 CrPC](#). The plenitude of [Section 438](#) must be given its full play. There is no requirement that the accused must make out a “special case” for the exercise of the power to grant anticipatory bail. This virtually, reduces the salutary power conferred by [Section 438 CrPC](#) to a dead letter. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints and conditions on his freedom, by the acceptance of conditions which the court may deem fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

(v) The proper course of action on an application for anticipatory bail ought to be that after evaluating the averments and accusations available on the record if the court is inclined to grant anticipatory bail then an interim bail be granted and notice be issued to the Public Prosecutor. After hearing the Public Prosecutor the court may either reject the anticipatory bail application or confirm the initial order of granting bail. The court would certainly be entitled to impose conditions for the grant of

anticipatory bail. The Public Prosecutor or the complainant would be at liberty to move the same court for cancellation or modifying the conditions of anticipatory bail at any time if liberty granted by the court is misused. The anticipatory bail granted by the court should ordinarily be continued till the trial of the case.

(vi) It is a settled legal position that the court which grants the bail also has the power to cancel it. The discretion of grant or cancellation of bail can be exercised either at the instance of the accused, the Public Prosecutor or the complainant, on finding new material or circumstances at any point of time.

(vii) In pursuance of the order of the Court of Session or the High Court, once the accused is released on anticipatory bail by the trial court, then it would be unreasonable to compel the accused to surrender before the trial court and again apply for regular bail.

(viii) Discretion vested in the court in all matters should be exercised with care and circumspection depending upon the facts and circumstances justifying its exercise. Similarly, the discretion vested with the court under [Section 438 CrPC](#) should also be exercised with caution and prudence. It is unnecessary to travel beyond it and subject the wide power and discretion conferred by the legislature to a rigorous code of self-imposed limitations.

(ix) No inflexible guidelines or straitjacket formula can be provided for grant or refusal of anticipatory bail because all circumstances and situations of future cannot be clearly visualised for the grant or refusal of anticipatory bail. In consonance with legislative intention, the grant or refusal of anticipatory bail should necessarily depend on the facts and circumstances of each case.

(x) The following factors and parameters that need to be taken into consideration while dealing with anticipatory bail:

- (a) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
- (b) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;
- (c) The possibility of the applicant to flee from justice;
- (d) The possibility of the accused's likelihood to repeat similar or other offences;
- (e) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;
- (f) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people;
- (g) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of [Sections 34](#) and [149](#) of the Penal Code, 1860 the court should consider with even greater care and caution, because overimplication in the cases is a matter of common knowledge and concern;
- (h) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused;
- (i) The Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(j) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.

11. Now in this background of law we come back to present case. In present case, money was taken from the account of complainant. Further, there is incriminating material against the accused. Further, having regard to the nature of offence and role assigned to present accused, his custodial interrogation may be required. Under these circumstances, this court do not find merit to grant the relief sought in the present application. **With these observations present application is dismissed.**

12. **The observations made in the present bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.**

13. **Copy of this order be given to applicant as well as a copy be sent to IO/SHO concerned through electronic mode.**

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**(NAVEEN KUMAR KASHYAP)**  
**Additional Sessions Judge-04/Central**  
**Central Distt/Delhi**  
**23.11.2020**



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

**Bail Application: 1900/2020**

**State Vs Satpal yadav**  
**FIR No. 468/2015**  
**PS.: Rajinder Nagar**  
**U/s: 420, 468, 471 IPC**

**23.11.2020**

**Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.**  
**Sh. Praveen Mahajan, Ld. Counsel for applicant through VC.**  
**SI Mahipal Singh is present through VC.**

Vide this order, the bail application under section 439 Cr.P.C. on behalf of accused dated 12.11.2020 filed through counsel is disposed off.

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

**State Vs Satpal yadav**  
**FIR No. 468/2015**  
**PS.: Rajinder Nagar**  
**U/s: 420, 468, 471 IPC**

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 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 on behalf of accused that he is in JC since 09.11.2020; that applicant is innocent and he has been falsely implicated in the present case despite his no involvement in the present case; that present FIR is classic case of misuse of

criminal provisions; that entire dispute is having the overtone of civil dispute concerning the non performance of the alleged property contract which is now blown out of proportion and converted into criminal case which is a false and fabricated case; that the transactions in question are related to 02/01/2014 whereas the present FIR is registered on 06/07/2015 which itself put entire story of complainant under the grave suspicion and applicant was arrested on 09/11/2020 that is after 1953 days; that applicant is having no criminal antecedent with no prior conviction and is deep rooted person in society; nothing incriminating has been recovered from the possession of the applicant and his custodial interrogation is not required further; that no purpose would be served by keeping the present applicant in JC. Further the matter is already compromised now between the parties. As such, it is prayed that he be granted regular bail.

On the other hand, in reply dated 17/11/2020, it is stated by the IO, as also argued by the learned Addl.PP for the state that present accused alongwith co-accused persons tried to sell a plot at Sector 110 Noida UP which plot was already acquired by the Noida Authority from its previous owner. Such, accused person even affixed false photograph on the alleged property papers of the plot in question. That such accused person failed to provide previous chain of papers relating to property in question despite that they received a payment of Rs. 30 lacs from the complainant. As such, it is claimed that even if matter is compromised between the parties still having regard to the nature of such offence and the manner in which it was committed, same is of little consequence. Further, it is alleged that offence u/s 468 and 471 IPC are non compoundable and non bailable in nature. As such, present bail application is strongly opposed.

I find force in the arguments of learned Addl.PP for the State. As such, this court is not inclined to grant the relief as sought in the present application. Hence, the same is dismissed.

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**With these observations present bail application is disposed of as dismissed. Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Copy of this order be sent to Jail Superintendent concerned through electronic mode.**

The observations made in the present interim bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.

NAVEEN KUMAR  
KASHYAP

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**(Naveen Kumar Kashyap)  
Additional Sessions Judge-04  
Central/THC/Delhi  
23.11.2020**

State Vs Satpal yadav  
FIR No. 468/2015  
PS.: Rajinder Nagar  
U/s: 420, 468, 471 IPC

: 1 :

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

**Bail Application No. 1824/2020**

**State v. Arif Khan**  
**FIR No.: 17/2019**  
**PS: Lahori Gate**  
**U/s: 380,420,120B IPC**

**23.11.2020**

**This court is also discharging Bail Roster Duty.**

**Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.**  
**Mr. R.N. Sharma, learned counsel for the applicant / accused through VC.**

Vide this order, the bail application under section 439 Cr.P.C. on behalf of accused dated 05.11.2020 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 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 present accused was formerly arrested on 12.10.2020. That present case was falsely imposed upon him. That there is no incriminating evidence against him except the alleged disclosure statement. It is further claimed that he is not seen in the CCTV footage installed at the ATM in question. That he is the only earning member of the family having a wife and three children and four unmarried sister and old ailing parents. That he is permanent resident of UP. That no purpose would be served by keeping him in JC. As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by IO as also argued by learned Addl. PP for the state, it is argued that present accused is part and parcel of well planned conspiracy by which cheques were stolen from cheque drop box. Later on, present accused misused the bank account of certain known persons of his area by keeping them in dark and thereby got encashed some such stolen cheques. That he even did not return ATM

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card and bank passbook of such witness Abdul Sayeed stating that same is lost. That another FIR no. 634/2020 under the similar offences is already registered against him at UP and as such, he was wrongly arrested in the present case. That co-accused Rashid is still to be arrested. As such, present bail application is strongly opposed.

I find force in the arguments of learned Addl.PP for the state. Investigation is not yet complete. Co-accused is yet to be arrested. Further, having regard to the nature of offence, the manner in which it is committed, same is nuisance to general public at large. Further, there are incriminating evidence against the present accused statement of witnesses and bank record. Therefore, having regard to the nature of offence and stage of investigation, this court is not inclined to grant bail at this stage.

**The observations made in the present bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.**

**With these observations present bail application is disposed of as dismissed. Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Copy of this order be also sent to Jail Superintendent concerned through electronic mode.**

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**(Naveen Kumar Kashyap)  
Additional Sessions Judge-04  
Central/THC/Delhi  
23.11.2020**

: 1 :

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

**Bail Application No.:1816 /2020**

**State v. Rahul @ Jitu**  
**FIR No.:259/2020**  
**PS:Lahori Gate**  
**U/s: 25,54,59 Arms Act**

**23.11.2020**

**This court is also discharging Bail Roster Duty.**

**Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.**  
**Sh. Ayub Khan, learned counsel for the applicant / accused through VC.**

Vide this order, the bail application under section 439 Cr.P.C. on behalf of accused dated 06.11.2020 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 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).

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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 accused is in JC since 10.09.2020. After lifting by the police official of PS Lahori Gate, present accused is falsely implicated in the present case. That he is not a previous convict and the is only bread earner in the family. That alleged katta is implanted upon him. That he has roots in the society. That no purpose would be served by keeping him in JC. As such, it is prayed that he be granted regular bail.

On the other hand, in reply filed by IO as also argued by learned Addl. PP for the state, it is argued that present accused was arrested on the spot while checking vehicles alongwith a stolen motorcycle from UP and on his search, a country made pistol/katta alongwith live cartridge. That such accused is involved in other criminal cases relating to theft and even under Arms Act earlier also. That he is likely to commit similar offence if released on bail. It is further stated that chargesheet is yet to be filed. As such, present bail application is opposed.

I find force in the arguments of learned Addl.PP for the

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state. Investigation is at the initial stage. Further, from the material placed on record by the accused also, it appears that he is involved in other cases. Further, he was arrested on the spot alongwith country made pistol and live cartridge. Therefore, having regard to the nature of offence and stage of investigation, this court is not inclined to grant bail at this stage.

**The observations made in the present bail application order are for the purpose of deciding of present application and do not affect the factual matrix of the investigation of the present case which is separate issue as per law.**

**With these observations, present bail application is disposed of as dismissed. Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Copy of this order be also sent to Jail Superintendent concerned through electronic mode.**

NAVEEN KUMAR  
KASHYAP

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**(Naveen Kumar Kashyap)  
Additional Sessions Judge-04  
Central/THC/Delhi  
23.11.2020**