

State Vs. Unkown (through applicant Rakhi Jain)

e-FIR CDRN 000111/20

PS Rajender Nagar

17.07.2020

Present: Applicant Ms. Rakhi Jain (through VCC over Cisco Webex)

Sh. Vakil Ahmad, Ld. APP for State (through VCC over Cisco Webex)

IO/ ASI Sanjay Kumar (through VCC over Cisco Webex)

Matter is heard through VCC over CISCO Webex Application at 1:14 PM.

The present urgent application was filed on behalf of the applicant on email id of this court on 15.07.2020. Same is taken up for hearing through VCC in view of Circular No. 6797-6899/CMM/Central/DR/2020 dated 29.06.2020.

This order shall dispose off the application for release of mobile phone on Superdari, moved on behalf of **applicant Rakhi Jain**.

In furtherance of directions issued through email dated 15.07.2020, Scanned copy of status report has been sent by IO/ASI Sanjay Kumar, through the email id of the court, wherein it has been stated that in connection with the present case e-FIR the Samsung A-30 mobile phone is lying in the custody of the police at PS Rajender Nagar. IO has stated that as per the bill of mobile phone, same was purchased in name of Mangalam Oil Company and he has no objection if the aforesaid mobile phone is released on superdari.

Applicant submits that she is the proprietor of said Mangalam Oil Company and had purchased the mobile in question in the name of her company.

For the purposes of identity applicant has sent scanned copy of her Aadhar ID card. Scanned copy of bill pertaining to mobile phone is also sent to email id of court along with the application.

As per the report of IO/ASI Sanjay Kumar, the present e-FIR was registered upon the complaint of applicant Rakhi Jain and the investigation qua mobile phone in question is already complete. Therefore, no useful purpose shall be served in further keeping the mobile phone in question in police custody.

In these circumstances and as per directions of **Hon'ble High Court of Delhi** in matter of "**Manjit**


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Singh Vs. State in Crl. M.C. No.4485/2013 dated 10.09.2014, the aforesaid the Samsung A-30 mobile phone be released to the applicant / owner subject to the following conditions:-

1. IO shall verify the original bill/invoice of mobile phone in question from the concerned vendor from whom applicant has purchased the mobile phone in question.
2. IO Shall also verify the fact if applicant is the Proprietor/Director in said Mangalam Oils Company and had purchased the mobile in the name of the company.
2. If applicant is found to be rightful owner of the mobile phone in question, it be released to her only subject to furnishing of indemnity bond as per its value, to the satisfaction of the concerned SHO/ IO subject to verification of documents.
2. IO shall prepare detailed panchnama mentioning the colour, IMEI NO., ownership and other necessary details of the mobile phone.
3. IO shall take the colour photographs of the mobile phone from different angles and also of the IMEI number of the mobile phone.
4. The photographs should be attested and counter signed by the complainant/applicant and accused.

IO/SHO is directed to comply with this order within 3 days of receiving the same.

The application is accordingly disposed off.

Scanned copy of this order is being sent to Sh. Awdhesh Kumar Rai (Reader) through whatsapp/email for transmitting the same to the applicant and IO/SHO concerned, electronically, for necessary compliance.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.



(RISHABH KAPOOR)
MM-03 (Central), THC, Delhi
17.07.2020

State Vs. Sushil @ Sillu
FIR No.30/2020
PS Rajender Nagar

17.07.2020

Present: Sh. Vakil Ahmad Ld. APP for State (through VCC over Cisco Webex)

Sh. M.P Sinha Ld. Counsel for applicant/accused (through VCC over Cisco Webex)

IO/SI Ali Akram (through VCC over Cisco Webex)

Matter is heard through VCC over CISCO Webex Application at 2:15 PM.


The present urgent application was filed on behalf of the applicant on email id of this court on 15.07.2020. Same is taken up for hearing through VCC in view of Circular No. 6797-6899/CMM/Central/DR/2020 dated 29.06.2020.

Scanned copy of reply of under the signatures of IO/SI Ali Akram, is received through email id of the court. Copy of same is already supplied to counsel of applicant/accused, through email.

This order shall dispose of the application for grant of regular bail u/s 437 Cr.PC., moved on behalf of **applicant/accused Sushil @ Sillu**.

It is averred on behalf of applicant/accused that the allegations u/s 307 IPC and S. 25/27 Arms Act, stands dropped in the charge sheet and only Section 387/120B/34 IPC subsists against applicant/accused. It is averred that applicant has been falsely implicated in the present case on the basis of disclosure made by co-accused Lakhn Verma. It is further averred that applicant has been implicated in present case on the basis of video clipping allegedly sent by one of inmates of Tihar Jail, without verification of same. It is further averred that the accused has no involvement in the present case as he was not present in Delhi at the time of alleged occurrence. With these averments, prayer is made for grant of bail to accused.

Ld. APP for the State submits that the accused shall not be released on bail he has committed offences which are serious in nature. It is also contended that the applicant/accused is a declared BC of Pul Prahladpur area and if enlarged on bail, he will indulge in commission of similar offences and may also harm the complainant. It is also contended that the mobile phone


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of the applicant/accused is sent to FSL for retrieval of some vital evidences from his whatsapp, therefore there lies an apprehension that if enlarged on bail, the applicant will temper or delete the same by using his whatsapp in some other mobile phone.

Ld. Counsel for applicant submits that the applicant/accused has been falsely implicated on the basis of extra judicial confession extracted by police from co-accused Lakhn Verma and same has no evidentiary value in the eyes of law. Counsel for applicant has relied on judgment in case titled as ***Pancho Vs. State of Haryana MANU/SC/1275/2011.***

Ld. Counsel for applicant also submits that as charge sheet has already been filed in the court but due to present Covid-19 pandemic situation, the same has not been supplied to applicant/accused on account of restricted functioning of courts, hence directions be issued to IO for supplying same to counsel for applicant/accused.

Per contra, Ld. APP for State submits that the applicant/accused is directly involved in commission of alleged offences by associating himself in active conspiracy with co-accused persons. More particularly, applicant/accused was the nexus between co-accused Abhay Arora, Amit Shukla and Naveen Bali. It is also submitted that the investigation conducted so far, discloses the involvement of accused in offences u/s 387/307/120B IPC and in the one of page of charge sheet, section 307/120B IPC is inadvertently omitted, as the charge sheet could not be scrutinized before its submission in court due to lockdown situation. It is also contended that the earlier bail application of accused has also been dismissed by the Ld. Court of Sessions.

The allegations against accused are serious in nature. The investigation qua accused is not yet complete as retrieval of some vital evidences from whatsapp of the accused, is still awaited from FSL. Accused is stated to a declared bad character of Pul Prahlad Pur area. On perusal of the scanned copy of previous conviction/involvement report received along with reply of IO (through email), it emerges that the accused is having previous involvements in certain other cases, involving serious offences. More particularly, the accused has been shown to have complicity in respect of case FIR No.128/2019 u/s 25/54/59 Arms Act PS Govind Puri, Case FIR No. 119/2011 u/s 382/392/411/34 IPC PS Fatehpur Beri, Case FIR No. 156/2011 u/s 382/411/34 IPC and Case FIR No. 113/2011 u/s 392/34 IPC both at PS Pul Prahlad Pur. Through a catena of judgments including ***State through CBI Vs. Amaramani Tripathi (2005) 8SCC21***, it has been held that amongst other factors, the considerations such as character, behaviour, means position and standing of the accused, alongwith likelihood of offences being repeated, serves as vital


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consideration for deciding the grant of bail or refusal to bail to the accused.

If that be so, the apprehension of prosecution that if enlarged on bail, the applicant/accused will commit the offences of like nature or will harm the complainant, appears to be well justified. Besides, the apprehension of prosecution that if enlarged on bail, the applicant/accused will temper with the material evidences by accessing his whatsapp in some other mobile phone, also appears to be well justified.

Furthermore, as regards the argument advanced on behalf of the applicant qua the alleged alleged false implication of accused on the basis of extra judicial confession of co-accused Lakhan Verma, is concerned, it is pertinent to mention that such matters are to be dealt with during the course of the trial and as such, at the time of adjudicating upon the application in hand, same does not appear to be vital. In this context, it becomes pertinent to mention the observations made by Hon'ble Apex Court in **Anil Kumar Yadav vs. State (NCT) of Delhi (2018) 12 SCC 129**, wherein it was observed that it is by now well settled that at the time of considering an application for bail, the court must take into account certain factors such as existence of a prima facie case against the accused, the gravity of allegations, the position and status of the accused, the likelihood of accused fleeing from justice and repeating the offence, the possibility of tampering with the witnesses and obstructing the courts as well as the criminal antecedents of the accused. It is also well settled that the court must not go deep in the merits of the matter while considering an application for bail. All that needs to be established from the record is the existence of a prima facie case against the accused.

In view of discussion made above, this court is of the firm view that no ground for grant of bail is made out to the **accused/applicant Sushil @ Sillu**. Accordingly, the present application deserves dismissal and same is hereby **dismissed**.

So far as prayer made on behalf of applicant/accused qua supply of copy of charge sheet is concerned, keeping in view the larger interests of justice, such prayer is accepted and IO/SI Ali Akram is hereby directed to supply the copy of charge sheet in electronic form, to the counsel for applicant/accused through email, within 2 days from today.

Sushil
17/07/2020

Scanned copy of this order is being sent to Sh. Awdhesh Kumar Rai (Reader) through whatsapp/email for transmitting the same to the counsel for applicant and IO concerned, electronically, and for necessary compliance.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.



(RISHABH KAPOOR)

MM-03 (Central), THC, Delhi

17.07.2020

State Vs. Unknown
FIR No. 182/2020
PS Rajender Nagar

रिशभ कपूर
RISHABH KAPOOR
महानगर दण्डाधिकारी-03
Metropolitan Magistrate-03
केन्द्रीय जिला कमरा नं. 150
Central District, Room No. 150
तीस हजारी न्यायालय, दिल्ली
Tis Hazari Courts, Delhi

17.07.2020

Present: Sh. Vikramjit Saini, Ld. Counsel for applicant (through VCC over Cisco Webex)
Sh. Vakil Ahmad, Ld. APP for State (through VCC over Cisco Webex)
SI Mahipal Singh (through VCC over Cisco Webex)

Matter is heard through VCC over CISCO Webex Application at 12:34 PM.

The present urgent application was filed on behalf of the applicant on email id of this court on 15.07.2020. Same is taken up for hearing through VCC in view of Circular No. 6797-6899/CMM/Central/DR/2020 dated 29.06.2020.

In furtherance of directions issued through email dated 15.07.2020, Scanned copy of status report has been sent by SI Mahipal Singh, through the email id of the court, wherein it has been stated that there is no FIR No.182/2020 registered at PS Rajender Nagar.

At this stage, Ld. Counsel for applicant states at bar that he wishes to withdraw the present application with a liberty to file it afresh after ascertaining correct case particulars.

In view thereof, the present application stands dismissed as withdrawn. However, the applicant is given liberty to file the fresh application with correct case particulars, if so advised.

The application is accordingly disposed off.

Scanned copy of this order is being sent to Sh. Awdhesh Kumar Rai (Reader) through whatsapp/email for transmitting the same to the Ld. Counsel for applicant, electronically and for necessary compliance.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.


(RISHABH KAPOOR)
MM-03 (Central), THC, Delhi
17.07.2020