

State Vs. Amarjeet Singh

FIR No.185/2020

PS: Rajender Nagar

रिषभ कपूर
RISHABH KAPOOR
महानगर दण्डाधिकारी-1
Metropolitan Magistrate-01
केन्द्रीय जिला कमरा नं. 150
Central District, Room No. 150
तीस हजारी न्यायालय, दिल्ली
Tis Hazari Courts, Delhi

21.08.2020

Matter heard through VCC over Cisco Webex.

Case is taken up in view of directions of Hon'ble High Court vide Office order /DHC/2020 Dated 15.08.2020.

Present: Sh. Vakil Ahmed Ld. APP for State

Sh. Nitin Kumar for applicant/accused

IO/SI Vinod Kumar in person

The present urgent application was filed on behalf of the applicant on email id of this court.


Scanned copy of reply of under the signatures of IO/SI Vinod Kumar, 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 off the application for grant of bail u/s 437 Cr.PC, moved on behalf of **applicant/accused Amarjeet Singh.**

It is stated that the applicant is innocent and has been falsely implicated in the present case. It is further averred that the custodial interrogation of the applicant/accused is no more required, nor any recovery is left to be effected from him. It is further averred that applicant is sole bread earner of his family and is having responsibility to maintain his family. With these averments prayer is made for enlarging applicant on bail.

Ld. APP for State has opposed the present application citing seriousness of allegations and made a prayer for dismissal of the present application.

In the present case, the applicant was arrested for the offences u/s 379/411 IPC. As per reply filed by IO/SI Vinod Kumar, the recovery of alleged 20 cartons of rubber


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gloves has already been effected from the applicant/accused, in the present case. It is also not disputed that applicant/accused is the first time offender having no previous criminal antecedents. As the recovery of the case property has already been effected from the accused, coupled with the fact that the accused has never been involved in any of the offences, and as such is having clean previous antecedents, therefore, there does not exist any apprehension that if enlarged on bail, he will commit offences of like nature or will dissuade the prosecution witnesses. Further, the trial of the case would take a long time and till then the liberty of the accused cannot be curtailed, when his custody is as such not required for the investigation purposes. Even otherwise also, the presence of the accused during the course of remaining investigation, if any, as well as during trial can be ensured by taking sufficient sureties undertaking to ensure his presence. If so, in the circumstances, I am of the view that there exists no ground in further curtailing the liberty of the applicant/accused.

At this juncture, it is also pertinent to cite the observations made by the Hon'ble apex court *In **Sanjay Chandra versus CBI (2012) 1SCC 40***, wherein it was observed that the courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest 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 un-convicted persons should be held in custody pending trial to secure their attendance at trial but in such cases, necessity is the operative test. The Hon'ble Apex court further observed that in this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person 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 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 that it would be improper for any court to refuse bail as a mark of this approval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for purpose of giving him a taste of imprisonment as a lesson.

In the light of the discussion made above, I am of the view that the contentions of the prosecution appears to be untenable and as such, there exists no reasonable justification, in not enlarging the applicant/accused, on bail. Accordingly, the accused/applicant Amarjeet is hereby ordered to be enlarged on bail, subject to following conditions;



21/08/2020.

1. That the applicant shall furnish personal and surety bonds in the sum of **sum of Rs.20,000/- each**, to the satisfaction of **Ld. Duty MM (on court duty)**.
2. That the applicant shall make himself available as and when required to do so by the investigating agency or the police;
3. That the applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing any facts to the court or the police;
4. That the applicant shall not tamper with the prosecution evidence nor he will try to win over the prosecution witnesses or terrorize them in any manner; and
5. That the applicant shall not deliberately and intentionally act in a manner which may tend to delay the investigation and trial of the case.
6. That the applicant shall not leave the territories of India during the pendency of present case proceedings except with the permission of the court.

The application is accordingly disposed of.

Scanned copy of this order be sent to the Ld. Counsel for applicant through email. One copy be also sent to concerned Jail Superintendent through all permissible modes including email at daksection.tihar@gov.in , for necessary information and 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
21.08.2020

Letter No. F.4/SCJ-4/AS(UT)/2020/9324 dated 21.08.2020

FIR NO.83/2020

PS I.P Estate

21.08.2020

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

Matter heard through VCC over Cisco Webex.

Case is taken up in view of directions of Hon'ble High Court vide Office order /DHC/2020 Dated 15.08.2020.

Present: Sh. Vakil Ahmed Ld. APP for State

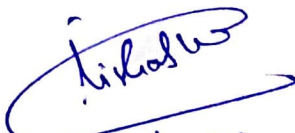
Sh. Sushil Babu, Head Warden, Jail No.4 Tihar

The present Letter No. F.4/SCJ-4/AS(UT)/2020/9324 dated 21.08.2020 under the signatures of Dy. Superintendent Central Jail No.4, Tihar, is received today.

It is stated in the aforesaid letter that accused Alishan @ Salman was granted interim bail for 45 days in present case FIR No. 83/2020 u/s 356/379/34 IPC PS I.P Estate vide orders dated 12.06.2020 passed by Ld. Duty MM. However, the accused was arrested on 14.06.2020 in connection with case FIR No. 248/2020 u/s 356/379/411/34 IPC, P.S. Kotwali. It is further stated that accused has been admitted on bail on 20.08.2020 in connection with case FIR No. 248/2020 u/s 356/379/411/34 IPC, P.S. Kotwali, vide orders passed by Sh. Chander Mohan, Ld. MM. It is further stated that the release of accused is however withheld as he has violated the condition no.2 of the interim bail order dated 12.06.2020. The directions have been sought regarding the status of accused in present case FIR No. 83/2020 u/s 356/379/34 IPC PS I.P Estate.

Heard. Record perused.

At this stage, the undersigned has been apprised that the accused Alishan has been admitted on regular bail u/s 437 Cr.PC. in connection with present case FIR No. 83/2020 u/s 356/379/34 IPC PS I.P Estate, vide orders dated 06.08.2020 passed by this court.


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Order dated 06.08.2020 passed by this court is also perused. The perusal of same would reveal that accused Alishan has already been admitted on bail in present case FIR No. 83/2020 u/s 356/379/34 IPC PS I.P Estate, upon furnishing personal and surety bonds in the sum of Rs. 15000/- to the satisfaction of concerned Ld. Duty MM. The bail bonds were however no furnished on behalf of accused, before this court on said date. If that be so, as the accused has already been ordered to be enlarged on regular bail by this court, therefore the condition imposed by Ld. Duty MM vide enlarging him on interim bail, appears to be inconsequential.

Accordingly, the concerned Jail Superintendent is directed to verify at his end whether he has received any release order qua accused in present case FIR pursuant to order dated 06.08.2020 passed by this court and subject to receipt of release order, the accused be released from custody if he is not required in any other process of law.

It is also to be noted that as per record, in bail order dated 06.08.2020 passed by this court, the FIR No. has been inadvertently mentioned as 183/2020 PS I.P Estate, however same be read as FIR NO.83/2020, PS I.P Estate.

Scanned copy of this order along with bail order dated 06.08.2020 be handed over to Sh. Sushil Babu, Head Warden, Jail No.4 Tihar, for transmitting the same to concerned Jail Superintendent, for compliance. One copy be sent to concerned Jail Superintendent through email at daksection.tihar@gov.in , for necessary information and 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
21.08.2020