

State Vs. Shiv

FIR No: 196/20

Under Section: 376/323/506/34 IPC

PS: Subzi Mandi

20.07.2020

Through video conferencing

This is an application for grant of anticipatory bail filed on behalf of the applicant.

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

Sh. Rahul Kumar, Ld. Counsel for accused/applicant.

Sh. Anil Kumar, Ld. Counsel for prosecutrix alongwith prosecutrix.

It is submitted by defence counsel that he has filed vakalatnama in the instant case today itself. Ld. Counsel has further requested for grant of some time to argue the present application.

At request, matter stands adjourned for arguments on 24.07.2020.

The reply of IO filed previously be supplied to counsel.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
20.07.2020

State Vs. Sahil

FIR No: 27/20

Under Section: 376/365/323/506 IPC

PS: Subzi Mandi

20.07.2020

Through video conferencing

An application for change of counsel moved on behalf of accused received.

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

Sh. Usman Chaudhary, Ld. Counsel for applicant/accused.

This is an application for change of counsel in the pending bail application. However, record reveals that the said bail application has already been dismissed in default vide order dated 08.06.2020 of Ld. ASJ (on duty) with liberty to file afresh.

Hence, present application is dismissed being non-maintainable.

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State Vs. Neeraj @ Rohit

FIR No: 1195/15

Under Section: 380/392/397/458/307/186/353/411/34 IPC

PS: Kotwali

20.07.2020

Through video conferencing

This is an application for disposing of earlier application dated 16.11.2019 for grant of bail filed on behalf of the applicant.

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

Sh. Hari Shanker, Ld. Counsel for accused/applicant.

Reply of IO filed. Copy supplied to counsel electronically.

Present application has been moved for disposal of bail application dated 16.11.2019.

Heard. Considered. In the facts and circumstances of the case, let the said application be taken for disposal today itself.

At this stage, Ld. Counsel requests for adjourning the matter for 28.07.2020.

In these circumstances, put up for arguments on regular bail application on 28.07.2020.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
20.07.2020

State Vs. Faisal

FIR No: 245/20

Under Section: 377 IPC

PS: Wazirabad

20.07.2020

Through video conferencing

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

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

Sh. Rajan Chaudhary, Ld. Counsel for applicant/accused.

It is submitted by Ld. APP that notice was duly served upon prosecutrix by IO, who has informed that she cannot appear today as she has recently given birth to a child.

Though, the notice was directed to be issued to prosecutrix on last date of hearing, however, same is not mandatory requirement of law or practice directions as the offence is under Section 377 IPC and not one under 376(3) , 376 AB, 376 DA and 376 DB IPC. Considering the situation of prosecutrix, I am of the view that further notice to her to join the present proceedings would be an undue harassment to her, more so when her presence is not mandated as per law. Therefore, I am proceeding to dispose of the application today itself.

Ld. Counsel for accused has vehemently argued for grant of bail on the ground that accused has been falsely implicated in the instant case by prosecutrix who is his wife. It is argued that parties are having acrimonious relationship since long as previously also, prosecutrix got registered two false FIRs (FIR bearing no 410/2016 PS Bharat Nagar Under Section 376 IPC and FIR no. 274/2018; Under Section 313 IPC; PS Saria Rohila) against accused. It is further argued that the said

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State Vs. Faisal

FIR No: 245/20

Under Section: 377 IPC

PS: Wazirabad

FIRs were, later on, quashed by Hon'ble High Court vide order dated 15.11.2019 on account of settlement between the parties. It is further argued that accused is no more required for investigation and therefore, may be granted bail in the facts and circumstances of the present case.

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

I have heard rival contentions and perused the record carefully.

The case of prosecution in nutshell is that accused being husband of prosecutrix committed unnatural sex with her against her wishes. In the reply filed by IO, it has also been mentioned that the prosecutrix had also complained about theft of her household articles. It is further reported by IO that prosecutrix (in her statement recorded under section 164 Cr.P.C), has also disclosed about accused getting her aborted without her will. However, as per IO, the investigation qua these allegations is yet to be done.

Considering the fact that parties are having long history of previous litigation and acrimonious relationship, the contention of defence regarding false implication cannot be brushed aside lightly. However rival contentions shall be adjudicated during course of trial only. The chances of accused threatening the prosecutrix appear to be slim in light of the fact that she has been quite diligent (in

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State Vs. Faisal

FIR No: 245/20

Under Section: 377 IPC

PS: Wazirabad

past) in pursuing her legal remedies against the accused with whom she is in long relationship.

Further, it is evident from report of IO that no investigation worth name has been conducted till date regarding allegations of theft and miscarriage. Even relevant sections, qua said allegations, have not been added by Investigating agency for the reasons best known to it. It appears that IO has opted to mention about said allegations (in her reply) just for the purpose of opposing the present application without any serious intent to investigate the same as per law.

Therefore, considering the totality of circumstances and in view of aforesaid discussion and since accused is no more required for investigation, I am inclined to grant bail to accused. **Accordingly, accused/applicant Faisal is admitted to bail on furnishing of Personal bond to the tune of Rs. 50,000/- with one surety of like amount to the satisfaction of concerned MM/Duty MM subject to the following conditions:**

1. The accused shall not contact the prosecutrix or her family members in any manner.
2. The accused/applicant shall not leave the country without prior permission of the court.
3. The accused/applicant shall not tamper with the evidence or threaten the witnesses.

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State Vs. Faisal

FIR No: 245/20

Under Section: 377 IPC

PS: Wazirabad

4. The accused/applicant shall intimate the Court in case of change of their addresses.

5. The accused shall not commit any similar offence.

If the applicant/accused is found to be violating any of the above conditions, the State shall be at liberty to move an application for cancellation of bail.

Copy of this order be sent to concerned Ld. Magistrate/SHO/IO, PS Wazirabad and concerned jail superintendent for information . Dasti be given to Ld. counsel through e-mail , if requested. **I may clarify that nothing expressed herein shall tantamount to an expression on the merit of present case.**

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
20.07.2020

State Vs. Arman Waris

FIR No: 65/18

Under Section: 307 IPC

PS: Kotwali

20.07.2020

Through video conferencing

This is fresh application for grant of interim bail filed on behalf of the applicant.

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

Sh. Anil Kumar, Ld. Counsel for applicant/accused.

Ld. Counsel for accused/applicant is seeking interim bail for 45 days. However, perusal of application reveals that accused has already been granted interim bail vide order dated **03.06.2020**. Therefore, present application shall be treated as one for extension of interim bail.

However, at this stage, it is submitted by Ld. Counsel that accused is still in jail. On my directions, Ahlmad has made telephonic inquires from jail and it is reported that accused is still lodged in Central Jail no. 4.

In these circumstances, let a detailed report be called from concerned jail superintendent regarding the reasons for non release of applicant despite order dated 03.06.2020. Copy of present order alongwith order dated 03.06.2020 be sent to concerned jail superintendent for compliance.

The concerned Incharge, bail/filing shall also file his report in writing regarding the date and the mode vide which the order dated 03.06.2020 was communicated to jail authorities.

Now to come up for further hearing on **22.07.2020**.

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20.07.2020

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