

FIR No.439/21
PS Rajouri Garden
State Vs. Sameer
u/s 356/379/34 IPC

11.06.2021

Proceedings through VC

Present: Ld. APP for the state.

Sh. Prashant, Ld. Counsel for the applicant/ accused.

Sh. Anil Kumar, Complainant with IO HC Vinod Kumar.

This is an application for grant of bail to accused Sameer, S/o Javir u/s 437 CrPC.

Ld. Counsel has reiterated his arguments that as per the averments in the FIR, the person guilty for snatching the mobile phone is 32-33 years old, whereas the accused herein is only 19 years of age approximately and this fact alone shows that the accused is not involved in the present case. It is submitted that the accused purchased the mobile phone which was recovered from his possession. Ld. Counsel has further argued that even as per the reply of the IO, the complainant has refused to participate in the TIP proceedings and the presence of the accused is no longer required for the purpose of investigation.

Reply has already been filed by the IO. Further, in pursuance of the order of this Court dated 10.06.2021, the IO has also filed the statement of the complainant, as per which the complainant has stated that he shall not participate in the TIP proceedings as he will be unable to recognize the accused. The complainant has also joined the proceedings through VC with the IO and has confirmed that he shall not be able to identify the accused.

Ld. APP for the state has opposed the application on the ground that the offence alleged against the accused is heinous in nature

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Heard. Record perused. Considered.

This Court is mindful of the proposition that bail is a rule and jail is an exception. As held by Hon'ble Supreme Court of India in the judgment titled **State of Rajasthan, Jaipur vs Balchand @ Baliay 1978 SCR (1) 538**, "The basic rule is bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the Court."

Recovery has already been effected. The pre-trial detention of the accused is not required for the purpose of investigation, as the complainant has himself refused to participate in the the TIP proceeding. No useful purpose shall be served by detaining the accused in custody for a longer period, pending trial.

The previous involvement report of the accused as filed by the IO also does not merit further pre-trial detention of the accused, who has been admitted to bail in the only other case reflected in the report. Further, the Superior Courts have directed that steps be taken for decongestion of prisoners in view of the surge in cases on account of the pandemic. Considering the situation arising out of the pandemic as well as the overall circumstance of the case, the accused **Sameer, S/o Javir** is admitted to bail on his furnishing personal bond in the sum of Rs. 10,000/- with one surety of the like amount and further subject to the condition that accused shall join the investigation as and when required, shall not commit any other offence of similar nature, shall not contact the complainant/witnesses in any manner and desist from doing anything which may hamper the due process of law. **Bail bond not furnished.** Bail application disposed of accordingly.

Let a hard copy of the application, its reply and misc documents be filed on the record within one week of the resumption of regular functioning of the Courts. Further, let a copy of the order be uploaded on the website of District Courts forthwith.

Copy of the order be sent to Jail Superintendent concerned via

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official email ID for intimation.

Copy of the order be given *dasti* to Ld. counsel for accused.

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MM-02(West)/THC/Delhi
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Proceedings through VC

Present: Ld. APP for the state.

Sh. Shivam Mishra, Ld. Counsel for the applicant/ accused.

This is an application for grant of bail to accused Vicky, S/o Kamal u/s 437 CrPC.

Reply has been filed by the IO.

It is argued by Ld. Counsel for accused/ applicant that the accused has been falsely implicated in the present case. Benefit of bail is requested and it is submitted that if the benefit of bail is granted to the accused, the accused shall be ready and willing to furnish a sound surety, and shall also be willing to abide by conditions imposed upon him by the court.

Ld. APP for the state has opposed the application on the ground that the offence alleged against the accused is heinous in nature.

Heard. Record perused. Considered.

This Court is mindful of the proposition that bail is a rule and jail is an exception. As held by **Hon'ble Supreme Court of India** in the judgment titled **State of Rajasthan, Jaipur vs Balchand @ Baliay 1978 SCR (1) 538**, "The basic rule is bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the Court."

The accused is alleged to have committed offence punishable u/s 356/379/34 IPC and is languishing in custody since 19.04.2021. Record reveals

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that the accused/applicant was arrested on the basis of the disclosure made by the co-accused. As per the reply of the IO, recovery has already been effected. Reply of the IO does not show any cogent ground requiring the further pre-trial detention of the accused. Investigation is complete. No useful purpose shall be served by detaining the accused in custody for a longer period. Co-accused has already been granted bail. Further, as per the previous involvement report of the accused, the accused has not been convicted in any of the offences reflected in the report. Furthermore, the Superior Courts have directed that steps be taken for decongestion of prisoners in view of the surge in cases on account of the pandemic. Considering the situation arising out of the pandemic as well as the overall circumstance of the case, the accused **Vicky, S/o Kamal** is admitted to bail on his furnishing personal bond in the sum of Rs. 10,000/- with one surety of the like amount and further subject to the condition that accused shall join the investigation as and when required, shall not commit any other offence of similar nature, shall not contact the complainant/witnesses in any manner and desist from doing anything which may hamper the due process of law. **Bail bond not furnished.** Bail application disposed of accordingly.

Let a hard copy of the application, its reply and misc documents be filed on the record within one week of the resumption of regular functioning of the Courts. Further, let a copy of the order be uploaded on the website of District Courts forthwith.

Copy of the order be sent to Jail Superintendent concerned via official email ID for intimation.

Copy of the order be given *dasti* to Ld. counsel for accused.

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Proceedings through VC

Present: Ld. APP for the state.

Sh. Pranay Abhishek, Ld. Counsel for the applicant/ accused.

This is an application for grant of bail to accused Rahul, S/o Vinod u/s 437 CrPC.

Reply has been filed by the IO.

It is argued by Ld. Counsel for accused/ applicant that the accused has been falsely implicated in the present case. Benefit of bail is requested and it is submitted that if the benefit of bail is granted to the accused, the accused shall be ready and willing to furnish a sound surety, and shall also be willing to abide by conditions imposed upon him by the court, if his application is allowed.

Ld. APP for the state has opposed the application on the ground that the offence alleged against the accused is heinous in nature

Heard. Record perused. Considered.

This Court is mindful of the proposition that bail is a rule and jail is an exception. As held by **Hon'ble Supreme Court of India** in the judgment titled **State of Rajasthan, Jaipur vs Balchand @ Baliy 1978 SCR (1) 538**, "The basic rule is bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like by the petitioner who seeks enlargement on bail from the Court."

The instant FIR is registered under Sections 33/38 of the Delhi excise Act, and it is averred therein that the accused was found in possession of

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96 quarters of illicit liquor. Recovery has been already effected. The accused has clean antecedents. Reply of the reply does not show any cogent ground requiring the pre-trial detention of the accused. The IO has not stated that the detention of the accused is required for further investigation. Further, the Superior Courts have directed that steps be taken for decongestion of prisoners in view of the surge in cases on account of the pandemic. Considering the situation arising out of the pandemic as well as the overall circumstance of the case, the accused **Rahul, S/o Vinod** is admitted to bail on his furnishing personal bond in the sum of Rs. 10,000/- with one surety of the like amount and further subject to the condition that accused shall join the investigation as and when required, shall not commit any other offence of similar nature, shall not contact the complainant/witnesses in any manner and desist from doing anything which may hamper the due process of law. **Bail bond not furnished.** Bail application disposed of accordingly.

Let a hard copy of the application, its reply and misc documents be filed on the record within one week of the resumption of regular functioning of the Courts. Further, let a copy of the order be uploaded on the website of District Courts forthwith.

Copy of the order be sent to Jail Superintendent concerned via official email ID for intimation.

Copy of the order be given *dasti* to Ld. counsel for accused.

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