(1)

FIR No.103/2021
PS Wazirabad
U/s 376/328/506 IPC
State Vs. Aman Talwar

26/06/202

Present application u/s. 438 Cr.P.C. has been filed on behalf of accused Aman Talwar for grant of anticipatory bail.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).

IO/W-SI Ranjana is present through V.C.

Sh. Girish Chander alongwith Mr. Zaki Kazmi, Ld. Counsel for the accused Aman Talwar (through V.C.).

Complainant/ prosecutrix is present with Ld. Counsel Sh. Rakesh Kaushk (through V.C.).

Ahlmad is absent.

Further reply filed by the IO. Perused.

SHO/ IO is directed to file further/detailed reply, on the next date of hearing.

At joint request, the aforesaid bail application of the accused be put up for consideration on **09/07/2021.** Date of 09/07/2021 is given at the specific request and convenience of counsel for the parties.

IO is bound down for the next date of hearing i.e. **09/07/2021.**

Order be uploaded on the website of the Delhi District Court.

26/06/21

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
26/06/2021(G)

(2)

FIR No.103/2021
PS Wazirabad
U/s 376/328/506 IPC
State Vs. Vinay Prabha

26/06/2021

Present application u/s. 438 Cr.P.C. has been filed on behalf of the accused Vinay Prabha for grant of anticipatory bail.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).

IO/W-SI Ranjana is present through V.C.

Sh. Girish Chander alongwith Mr. Zaki Kazmi, Ld. Counsel for the accused Vinay Prabha (through V.C.).

Complainant/ prosecutrix is present with Ld. Counsel Sh. Rakesh Kaushk (through V.C.).

Ahlmad is absent.

Further reply filed by the IO. Perused.

SHO/ IO is directed to file further/detailed reply, on the next date of hearing.

It is submitted by counsel for the accused that accused Vinay Prabha has already joined the investigation in the present matter and she shall co-operate in the investigation and she shall join the investigation as and when directed by the SHO/ IO.

At joint request, the aforesaid bail application of the accused be put up for consideration on **09/07/2021.** Date of 09/07/2021 is given at the specific request and convenience of counsel for the parties.

IO is bound down for the next date of hearing i.e. **09/07/2021.**

Interim order, if any, to continue till next date of hearing. Accused is directed to join the investigation as and when directed by the SHO/ IO.

Order be uploaded on the website of the Delhi District Court.

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
26/06/2021(G)

(5)

Bail Application No.1113/2021
State Vs. Lucky Noel
FIR No.74/2021
PS Roop Nagar
U/s 392/397/120-B/411/34 IPC & 25/27 Arms Act

26/06/2021

Present 2nd application u/s 439 Cr.P.C. has been filed on behalf of accused Lucky Noel for grant of regular bail.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).

IO/SI K.L. Kuldeep is present through V.C.

Mr. Monis Ahmed, Ld. Counsel for the accused Lucky Noel (through V.C.).

Ahlmad is absent.

It is submitted by counsel for the accused that he wants to re-argue the present bail application of the accused as some points were left out at the time of arguments on the bail application.

Counsel for the accused seeks time for the purpose of clarifications/ re-arguments. Heard. Request is allowed.

At the request of counsel for the accused, the aforesaid bail application of the accused be put up for clarifications/ re-arguments on **29/06/2021.** Date of 29/06/2021 is given at the specific request and convenience of counsel for the accused.

IO is bound down for the next date of hearing i.e. **29/06/2021.**

Order be uploaded on the website of the Delhi District Court.

26/06/21

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
26/06/2021(G)

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Bail Application No.1417/2021
FIR No.74/2021
PS Roop Nagar
State Vs. Rahul
U/s 392/397/120-B/411/34 IPC & 25/27 Arms Act

26/06/2021

Present application u/s. 439 Cr.P.C. has been filed on behalf of the accused Rahul for grant of regular bail.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).

IO/SI K.L. Kuldeep is present through V.C.

Mr. Rahul Tyagi Ali, Ld. Counsel for the accused Raul (through V.C.).

Ahlmad is absent.

It is submitted by counsel for the accused that he wants to re-argue the present bail application of the accused as some points were left out at the time of arguments on the bail application.

Counsel for the accused seeks time for the purpose of clarifications/ re-arguments. Heard. Request is allowed.

At the request of counsel for the accused, the aforesaid bail application of the accused be put up for clarifications/ re-arguments on **29/06/2021.** Date of 29/06/2021 is given at the specific request and convenience of counsel for the accused.

IO is bound down for the next date of hearing i.e. **29/06/2021.**

Order be uploaded on the website of the Delhi District Court.

26/06/21

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
26/06/2021(G)

(7)

Bail Application No.1698/2021
FIR No.263/2021
PS Burari
U/s 376/498-A/34 IPC
State Vs. Raj Kumar

26/06/2021

Present application u/s. 438 Cr.P.C. has been filed on behalf of accused Raj Kumar for grant of anticipatory bail.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).

IO/ W-SI Madhvi is present (through V.C.).

Sh. U.K.Giri, Ld. Counsel for the accused Raj Kumar (through V.C.).

Sh. Vivekanand Mishra, Ld. Counsel for the complainant/ prosecutrix (through V.C.).

Ahlmad is absent.

Issue notice of the present bail application to the State. Addl. P.P. for the State accepts the notice of the aforesaid bail application.

Reply to the aforesaid bail application of the accused is stated to be filed by the IO.

SHO/ IO is directed to file further/ complete / detailed reply on the next date of hearing.

At joint request, the aforesaid bail application of the accused be put up for consideration on **06/07/2021.** Date of 06/07/2021 is given at the specific request and convenience of counsel for the parties.

IO is bound down for the next date of hearing i.e. **06/07/2021.**

Order be uploaded on the website of the Delhi District Court.

26/06/21

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
26/06/2021(G)

(8)

Bail Application No.1699/2021
FIR No. Not known
PS Civil Lines
U/s Not Known
State Vs. Mehtab Ali

26/06/2021

Present application u/s. 438 Cr.P.C. has been filed on behalf of accused Mehtab Ali for grant of anticipatory bail.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).

Mr. Mohnis Ahmed, Ld. Counsel for the applicant Mehtab Ali (through V.C.).

Ahlmad is absent.

Issue notice of the present bail application to the State. Addl. P.P. for the State accepts the notice of the aforesaid bail application.

Issue notice to the IO to appear and SHO/ IO is directed to file reply to the aforesaid bail application of the applicant, for the next date of hearing.

At the request of counsel for the appilcant, the aforesaid bail application of the accused be put up for consideration on **05/07/2021.** Date of 05/07/2021 is given at the specific request and convenience of counsel for the applicant.

Order be uploaded on the website of the Delhi District Court.

26/06/21

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
26/06/2021(G)

(9)

Bail Application No.1700/2021
FIR No.02/2021
PS Crime Branch
U/s 420/468/471/506/120-B/ 34 IPC
State Vs. Ashok Kumar @ Shiv Kumar

26/06/2021

Present application u/s. 439 Cr.P.C. has been filed on behalf of accused Ashok Kumar @ Shiv Kumar for grant of regular bail.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).

IO/ SI Omvir Dabas is present (through V.C.).

Sh. Kapil Kumar Nayyar, Ld. Counsel for the accused Ashok Kumar @ Shiv Kumar (through V.C.)

Ahlmad is absent.

Issue notice of the present bail application to the State. Addl. P.P. for the State accepts the notice of the aforesaid bail application.

Reply to the aforesaid bail application of the accused is stated to be filed by the IO.

It is submitted by counsel for the accused that bail application of the co-accused is already fixed for 07/07/2021 and the present bail application of the accused be also taken up for consideration on 07/07/2021. Heard. Request is allowed.

It is further submitted by counsel for the accused that in the present case, charge-sheet has already been filed and same is pending before the concerned Ld. MM.

TCR be called one day prior to the next date of hearing.

At request of counsel for the accused, the aforesaid bail application of the accused be put up for consideration on **07/07/2021.** Date of 07/07/2021 is given at the specific request and convenience of counsel for the accused.

IO is bound down for the next date of hearing i.e. **07/07/2021.**

Order be uploaded on the website of the Delhi District Court.

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(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
26/06/2021(G)

FIR No.79/2020
U/s 392/34 IPC
PS Wazirabad
State Vs. Sartaj

26/06/2021

File taken up today on the application u/s. 439 Cr.PC of accused Sartaj for grant of regular bail.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).

None has joined the proceedings through V.C. on behalf of the accused Sartaj.

Ahlmad is absent.

In the interest of justice, I am not passing any adverse order on account of non-appearance of counsel for the accused.

The aforesaid bail application of the accused be put up for consideration on **03/07/2021.**

Order be uploaded on the website of the Delhi District Court.

26/06/21

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
26/06/2021(G)

FIR No.293/2020
PS Prasad Nagar
U/s 452/307/34 IPC
State Vs. Vinod

26/06/2021

File taken up today on the interim bail application u/s. 439 Cr.P.C. of accused Vinod as per the H.P.C. guidelines.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).

Sh. Ashish Kapur, Ld. Counsel for the accused Vinod (through V.C.).

Ahlmad is absent.

It is submitted by counsel for the accused that he may be permitted to withdraw the present interim bail application of the accused Vinod as the case of the acused does not fall under the criteria of H.P.C guidelines, with liberty to file fresh bail application of the accused. Heard. Request is allowed.

At the request of counsel for the accused Vinod, the present interim bail application of the accused Vinod is dismissed as withdrawn. Accused Vinod is at liberty to file fresh bail application subject to just exceptions.

Order be uploaded on the website of the Delhi District Court.

Counsel for the accused is at liberty to collect the copy of the present order through electronic mode.

26/06/21

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
26/06/2021(G)

FIR No.171/2017
PS Lahori Gate
U/S 302 IPC
State Vs. Amzad

26/06/2021

File taken up today on the application u/s. 439 Cr.PC of accused Amzad for grant of interim bail for the period of 90 days as per the H.P.C. guidelines.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).

Sh. Yatinder Kumar, Ld. Legal Aid Counsel for the accused Amzad (through V.C.).

Ahlmad is absent.

Reports received from the Superintendent of Prison, Central Jail No.4, Tihar, New Delhi and IO.

It is submitted by counsel for the accused that report regarding status of all pending cases against the accused be called from the SHO/ IO concerned. Heard. Request is allowed.

Issue notice to the IO to appear and SHO/ IO is directed to file report regarding status of all pending cases against the accused, for the next date of hearing.

At the request of counsel for the accused, the aforesaid bail application of the accused be put up for consideration on **06/07/2021.** Date of 06/07/2021 is given at the specific request and convenience of counsel for the accused.

Order be uploaded on the website of the Delhi District Court.

26/06/21

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
26/06/2021(G)



26/06/2021

FIR No.319/2020
PS Nabi Karim
U/s 302/34 IPC
State Vs. Vishal & Ors.

File taken up today on the application u/s. 439 Cr.PC of accused Vishal for grant of regular bail.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).

IO/ Inspector Tej Dutt Gaur is present through V.C.

Sh. Gajraj Singh, Ld. Counsel for the accused Vishal (through V.C.).

Ahlmad is absent.

It is submitted by the IO that in the present case, FSL result is awaited.

It is submitted by counsel for the accused that IO be directed to file the status of FSL result. Heard. Request is allowed.

IO is directed to file status of FSL result on the next date of hearing.

At request of counsel for the accused, the aforesaid bail application of the accused be put up for consideration on **08/07/2021.** Date of 08/07/2021 is given at the specific request and convenience of counsel for the accused.

IO is bound down for the next date of hearing i.e. **08/07/2021.**

Order be uploaded on the website of the Delhi District Court.

26/06/21

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
26/06/2021(G)

CNR No.DLCT01-003801-2015
SC No.162/2021
FIR No.134/2015
PS Lahori Gate
State Vs. Tahir Hussain & Ors.

26/06/2021

File taken up today on the interim bail application u/s 439 Cr.P.C of the accused Tahir Hussain for grant of regular bail.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).

IO/ SI Sandeep is present (through V.C.).

Mr. Amjad Khan, Ld. Counsel for the accused Tahir Hussain (through V.C.).

Ahlmad is absent.

Arguments heard at length on the aforesaid bail application of the accused Tahir Hussain.

Put up for clarifications if any/ orders on **29/06/2021.**

Order be uploaded on the website of the Delhi District Court.

26/06/21

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
26/06/2021(G)

FIR No.02/2014
PS Jama Masjid
State Vs. Abdul Salam & Ors.

26/ 6/2021

File taken up today on the application u/s. 439 Cr.PC of accused Abdul Salam for grant of interim bail for the period of 90 days.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).

Mr. Rashid Hashmi, Ld. Counsel for the accused Abdul Salam (through V.C.).

Ahlmad is absent.

It is submitted by counsel for the accused that present interim bail application of the accused be treated as interim bail application only on the medical grounds of the accused and not as interim bail application as per the H.P.C. guidelines. Heard. Request is allowed.

Report received from the concerned Medical Officer In-charge and Deputy Superintendent.

Issue notice to the concerned Jail Superintendent and Medical Officer, In-charge to file further report regarding medical condition of the accused and immediate hospitalization if any, of the accused, on the next date of hearing.

Jail Authorities are directed to provide the requisite/ necessary/ immediate medical treatment to the accused, as per his medical condition on priority basis. Jail Authorities are also directed to get the accused admitted in the Hospital inside the jail or outside the jail referral / Govt. Hospitals, if required, as per rules.

Issue notice to the concerned Jail Superintendent and Medical Officer In-charge to join the proceedings through V.C. on the next date of hearing.

At the request of counsel for the accused, the aforesaid bail application of the accused be put up for consideration on **07/07/2021.** Date of 07/07/2021 is given at the specific request and convenience of counsel for the accused.

Order be uploaded on the website of the Delhi District Court.

26/06/21

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
26/06/2021(G)

Bail Application No. 1359/2021
FIR No. 18/2021
PS Bara Hindu Rao
U/s 395/412/34 IPC
State Vs. Sohan @ Sheru

26/06/2021

Present application u/s. 439 Cr.P. C has been filed on behalf of accused Sohan @ Sheru for grant of bail.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.)

IO/ASI Arvind Kumar is present (through V.C.).

Sh. Ajay M. Lal, Ld. Counsel for the accused Sohan @ Sheru (through V.C.).

Ahlmad is absent.

TCR is already received.

By way of present order, this Court shall disposed of bail application u/s. 439 Cr.P.C. of the accused Sohan @ Sheru.

Arguments heard on the aforesaid bail application of accused Sohan @ Sheru. Perused the material available on record.

During the course of arguments on the aforesaid bail application, it was submitted by counsel for the accused Sohan @ Sheru that the present bail application is the first bail application of the accused before Sessions Court after filing of the charge-sheet and no other bail application of the accused is pending before any other Court. It was further submitted that the accused has been falsely implicated in the present case and there is no incriminating evidence against the accused and investigation in the present case has already been completed and the accused is no more required for the purpose of further investigation as the charge-sheet has already been filed in the present case and same is pending before the

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concerned Ld. MM. It was further submitted that no recovery has been effected from the possession of the accused. It was further submitted that initially, the FIR was registered u/s. 379/34 IPC and Section 395 IPC was added subsequently without any basis and no offence u/s. 395 IPC is made out against the accused. It was further submitted that accused is in J/C since 05/04/2021 and no useful purpose will be served by keeping the accused behind the bars and bail be granted to accused and accused shall be abide by all terms and conditions imposed by the court.

During the course of arguments, it was submitted by Addl. P.P. for the State that the allegations against the accused are serious in nature and accused can abscond, if the bail is granted to the accused. It was further submitted that part recovery was effected from the possession of the co-accused and remaining case property is yet to be recovered. It was further submitted that accused has refused to join the judicial TIP and co-accused are yet to be arrested. It was further submitted that accused and his associates have been captured in CCTV footage while committing the crime. It was further submitted that in the present case, charge is yet to be framed and complainant/ public witnesses are yet to be examined and if the bail is granted to the accused, he can tamper with the evidence and influence the witnesses. It was further submitted that accused is habitual offender and he is previously involved in 24 criminal cases of different nature. It was further submitted that there is sufficient incriminating material is available on record against the accused and bail application of accused Sohan @ Sheru be dismissed.

It was held by the Hon'ble Supreme Court of India in case titled as **"Virupakshappa Gouda and Anr. Vs. State of Karnataka and Anr."** {(2017) 5 SCC 406} that :

*"15. The court has to keep in mind what has been stated in **Chaman Lal v. State of U.P**. The requisite factors are: (i) the*

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nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence; (ii) reasonable apprehension of tampering with the witness or apprehension of threat to the complainant; and (iii) prima facie satisfaction of the court in support of the charge. In ***Prasanta Kumar Sarkar v. Ashis Chatterjee****, it has been opined that while exercising the power for grant of bail, the court has to keep in mind certain circumstances and factors. We may usefully reproduce the said passage:*

"9....among other circumstances, the factors which are to be borne in mind while considering an application for bail are:

(i) whether there is any prima facie or reasonable ground to be believe that the accused had committed the offence.

(ii) nature and gravity of the accusation;

(iii) severity of the punishment in the event of conviction;

(iv) danger of the accused absconding or fleeing, if released on bail;

(v)character, behaviour, means, position and standing of the accused;

(vi) likelihood of the offence being repeated;

(vii)reasonable apprehension of the witnesses being influenced; and

(viii) danger, of course, of justice being thwarted by grant of bail."

16. In ***CBI v. V. Vijay Sai Reddy****, the Court had reiterated the principle by observing thus:-" 34. While granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words "reasonable grounds for believing"instead of "the evidence" which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not*

expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."

17. From the aforesaid principles, it is quite clear that an order of bail cannot be granted in an arbitrary or fanciful manner. In this context, we may, with profit, reproduce a passage from ***Neeru Yadav v. State of U.P.****, wherein the Court setting aside an order granting bail observed:*

"16.The issue that is presented before us is whether this Court can annul the order passed by the High Court and curtail the liberty of the second respondent? We are not oblivious of the fact that the liberty is a priceless treasure for a human being. It is founded on the bedrock of constitutional right and accentuated further on human rights principle. It is basically a natural right. In fact, some regard it as the grammar of life. No one would like to lose his liberty or barter it for all the wealth of the world. People from centuries have fought for liberty, for absence of liberty causes sense of emptiness. The sanctity of liberty is the fulcrum of any civilized society. It is a cardinal value on which the civilisation rests. It cannot be allowed to be paralysed and immobilized. Deprivation of liberty of a person has enormous impact on his mind as well as body. A democratic body polity which is wedded to rule of law, anxiously guards liberty. But, a pregnant and significant one, 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 collective and to the societal order. Accent on individual liberty cannot be pyramided to that extent which would bring chaos and anarchy to a society. A society expects responsibility and accountability from its members, and it desires that the citizens should obey the law, respecting it as a cherished social norm. No individual can make an attempt to create a concavity in the stem of social stream. It is impermissible. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly things which the society disapproves, the legal consequences are bound to follow. At that stage, the Court has a duty. It cannot abandon its sacrosanct obligation and pass an order at its own whim or caprice. It has to be guided by the established parameters of law."

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It was held by the Hon'ble Supreme Court of India in case titled as "**Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and Anr.**" {2004 Cri. L.J. 1796 (1)} that :

> *"11. The law in regard to grant or refusal of bail is very well settled. The Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the Court granting bail to consider among other circumstances, the following factors also before granting bail; they are,*
> *(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence;*
> *(b) Reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;*
> *(c) Prima facie satisfaction of the Court in support of the charge.*
> *12. In regard to cases where earlier bail applications have been rejected there is a further onus on the Court to consider the subsequent application for grant of bail by noticing the grounds on which earlier bail applications have been rejected and after such consideration if the Court is of the opinion that bail has to be granted then the said Court will have to give specific reasons why in spite of such earlier rejection the subsequent application for bail should be granted.*
> *14. ..... In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is*

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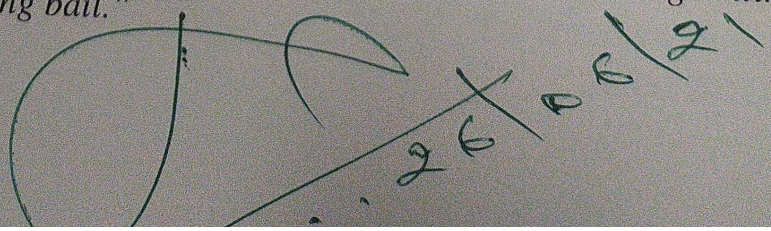
severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail.
20. Before concluding, we must note though an accused has a right to make successive applications for grant of bail the Court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the Court also has a duty to record what are the fresh grounds which persuade it to take a view different from the one taken in the earlier applications……."

It was held by the Hon'ble Supreme Court of India in case titled as "**Satish Jaggi Vs. State of Chhatisgarh and Ors.**" {AIR 2007 SC (Supp) 256} that :

"5. It is well settled law that in granting or non-granting of bail in non-bailable offence, the primary consideration is the nature and gravity of the offence…….
12. …..At the stage of granting of bail, the court can only go into the question of the prima-facie case established for granting bail. It cannot go into the question of credibility and reliability of the witnesses put up by the prosecution. The question of credibility and reliability of prosecution witnesses can only be tested during the trial."

It was held by the Hon'ble Supreme Court of India in case titled as "**Gurucharan Singh & Others Vs. State**" {AIR 1978 SC 179 (1)} that :

"29. We may repeat the two paramount considerations, viz likelihood of the accused fleeing from justice and his tampering with prosecution evidence relate to ensuring a fair trial of the case in a court of justice. It is essential that due and proper weight should be bestowed on these two factors apart from others. There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or cancelling bail."



In the present case, charge-sheet has been filed for the offences u/s. 395/412/34 IPC. In the present case, charge is yet to be framed and complainant/ public witnesses are yet to be examined and if the bail is granted to the accused, there is possibility that accused may tamper with the evidence and influence the witnesses. Accused had refused to join the judicial TIP proceedings. Accused is stated to be habitual offender and he is stated to be previously involved in 24 criminal cases of different nature.

The contentions of counsel for the accused Sohan @ Sheru that the accused has been falsely implicated in the present case and there is no incriminating evidence against him is not tenable at this stage as it is well settled law that at the stage of considering bail, it would not be proper for the Court to express any opinion on the merits or demerits of the prosecution case as well as defence.

Keeping in view the facts and circumstances of the case, gravity of offence and nature of serious allegations levelled against the accused, this Court is of the considered opinion that no ground for regular bail of the accused Sohan @ Sheru is made out at this stage. Accordingly, the present application for regular bail of the accused Sohan @ Sheru is dismissed.

A copy of this order be sent to the concerned Jail Superintendent through E-mail for information. Order be uploaded on the website of the Delhi District Court. Counsel for the accused is at liberty to collect the copy of present order through electronic mode.

TCR along with copy of this order be also sent to the Ld. Concerned Court/ MM.

26/6/21

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
26/06/2021(G)

Bail Application No. 1351/2021
FIR No. 18/2021
PS Bara Hindu Rao
U/s 395/412/34 IPC
State Vs. Ashok @ Ganja

26/06/2021

Present application u/s 439 Cr.P. C has been filed on behalf of accused Ashok @ Ganja for grant of bail.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.)

IO/ASI Arvind Kumar is present (through V.C.).

Sh. Deepak Malik, Ld. Counsel for the accused Ashok @ Ganja (through V.C.).

Ahlmad is absent.

TCR is already received.

By way of present order, this Court shall disposed of bail application u/s. 439 Cr.P.C. of the accused Ashok @ Ganja.

Arguments heard on the aforesaid bail application of accused Ashok @ Ganja. Perused the material available on record.

During the course of arguments on the aforesaid bail application, it was submitted by counsel for the accused Ashok @ Ganja that the present bail application is the first bail application of the accused before Sessions Court after filing of the charge-sheet and no other bail application of the accused is pending before any other Court. It was further submitted that the accused has been falsely implicated in the present case and there is no incriminating evidence against the accused and investigation in the present case has already been completed and the

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accused is no more required for the purpose of further investigation as the charge-sheet has already been filed in the present case and same is pending before the concerned Ld. MM. It was further submitted that no recovery has been effected from the possession of the accused and recovery has been falsely planted upon the accused. It was further submitted that accused is in J/C since 25/02/2021 and no useful purpose will be served by keeping the accused behind the bars and bail be granted to accused and accused shall be abide by all terms and conditions imposed by the court.

During the course of arguments, it was submitted by Addl. P.P. for the State that the allegations against the accused are serious in nature and accused can abscond, if the bail is granted to the accused. It was further submitted that part recovery was effected from the possession of the accused and remaining case property is yet to be recovered. It was further submitted that accused has refused to join the judicial TIP and co-accused are yet to be arrested. It was further submitted that accused and his associates have been captured in CCTV footage while committing the crime. It was further submitted that in the present case, charge is yet to be framed and complainant/ public witnesses are yet to be examined and if the bail is granted to the accused, he can tamper with the evidence and influence the witnesses. It was further submitted that accused is habitual offender and he is involved in six criminal cases of different nature. It was further submitted that there is sufficient incriminating material is available on record against the accused and bail application of accused Ashok @ Ganja be dismissed.

It was held by the Hon'ble Supreme Court of India in case titled as **"Virupakshappa Gouda and Anr. Vs. State of Karnataka and Anr."** {(2017) 5 SCC 406} that :

> *"15. The court has to keep in mind what has been stated in* ***Chaman Lal v. State of U.P****. The requisite factors are: (i) the*

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nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence; (ii) reasonable apprehension of tampering with the witness or apprehension of threat to the complainant; and (iii) prima facie satisfaction of the court in support of the charge. In ***Prasanta Kumar Sarkar v. Ashis Chatterjee****, it has been opined that while exercising the power for grant of bail, the court has to keep in mind certain circumstances and factors. We may usefully reproduce the said passage:*

"9....among other circumstances, the factors which are to be borne in mind while considering an application for bail are:

(i) whether there is any prima facie or reasonable ground to be believe that the accused had committed the offence.

(ii) nature and gravity of the accusation;

(iii) severity of the punishment in the event of conviction;

(iv) danger of the accused absconding or fleeing, if released on bail;

(v)character, behaviour, means, position and standing of the accused;

(vi) likelihood of the offence being repeated;

(vii)reasonable apprehension of the witnesses being influenced; and

(viii) danger, of course, of justice being thwarted by grant of bail."

16. In ***CBI v. V. Vijay Sai Reddy****, the Court had reiterated the principle by observing thus:-" 34. While granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words "reasonable grounds for believing"instead of "the evidence" which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not*

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expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."

17. From the aforesaid principles, it is quite clear that an order of bail cannot be granted in an arbitrary or fanciful manner. In this context, we may, with profit, reproduce a passage from ***Neeru Yadav v. State of U.P.****, wherein the Court setting aside an order granting bail observed:*

"16.The issue that is presented before us is whether this Court can annul the order passed by the High Court and curtail the liberty of the second respondent? We are not oblivious of the fact that the liberty is a priceless treasure for a human being. It is founded on the bedrock of constitutional right and accentuated further on human rights principle. It is basically a natural right. In fact, some regard it as the grammar of life. No one would like to lose his liberty or barter it for all the wealth of the world. People from centuries have fought for liberty, for absence of liberty causes sense of emptiness. The sanctity of liberty is the fulcrum of any civilized society. It is a cardinal value on which the civilisation rests. It cannot be allowed to be paralysed and immobilized. Deprivation of liberty of a person has enormous impact on his mind as well as body. A democratic body polity which is wedded to rule of law, anxiously guards liberty. But, a pregnant and significant one, 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 collective and to the societal order. Accent on individual liberty cannot be pyramided to that extent which would bring chaos and anarchy to a society. A society expects responsibility and accountability from its members, and it desires that the citizens should obey the law, respecting it as a cherished social norm. No individual can make an attempt to create a concavity in the stem of social stream. It is impermissible. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly things which the society disapproves, the legal consequences are bound to follow. At that stage, the Court has a duty. It cannot abandon its sacrosanct obligation and pass an order at its own whim or caprice. It has to be guided by the established parameters of law."

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It was held by the Hon'ble Supreme Court of India in case titled as "**Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and Anr.**" {2004 Cri. L.J. 1796 (1)} that :

> *"11. The law in regard to grant or refusal of bail is very well settled. The Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the Court granting bail to consider among other circumstances, the following factors also before granting bail; they are,*
> *(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence;*
> *(b) Reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;*
> *(c) Prima facie satisfaction of the Court in support of the charge.*
> *12. In regard to cases where earlier bail applications have been rejected there is a further onus on the Court to consider the subsequent application for grant of bail by noticing the grounds on which earlier bail applications have been rejected and after such consideration if the Court is of the opinion that bail has to be granted then the said Court will have to give specific reasons why in spite of such earlier rejection the subsequent application for bail should be granted.*
> *14. ..... In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is*

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severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail.
20. Before concluding, we must note though an accused has a right to make successive applications for grant of bail the Court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the Court also has a duty to record what are the fresh grounds which persuade it to take a view different from the one taken in the earlier applications……."

It was held by the Hon'ble Supreme Court of India in case titled as "**Satish Jaggi Vs. State of Chhatisgarh and Ors.**" {AIR 2007 SC (Supp) 256} that :

"5. It is well settled law that in granting or non-granting of bail in non-bailable offence, the primary consideration is the nature and gravity of the offence…….
12. …..At the stage of granting of bail, the court can only go into the question of the prima-facie case established for granting bail. It cannot go into the question of credibility and reliability of the witnesses put up by the prosecution. The question of credibility and reliability of prosecution witnesses can only be tested during the trial."

It was held by the Hon'ble Supreme Court of India in case titled as "**Gurucharan Singh & Others Vs. State**" {AIR 1978 SC 179 (1)} that :

"29. We may repeat the two paramount considerations, viz likelihood of the accused fleeing from justice and his tampering with prosecution evidence relate to ensuring a fair trial of the case in a court of justice. It is essential that due and proper weight should be bestowed on these two factors apart from others. There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or cancelling bail."

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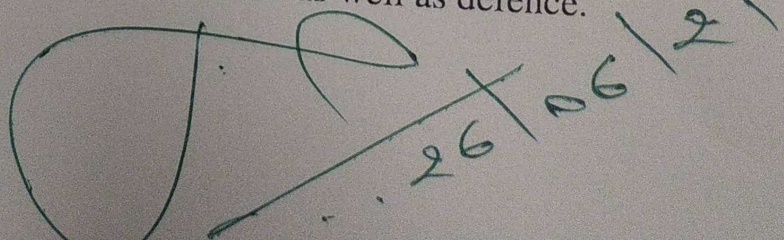
In the present case, charge-sheet has been filed for the offences u/s. 395/412/34 IPC. It is pertinent to mention here that in the present case, charge-sheet was filed on 20/05/2021 and regular bail application of the accused Ashok @ Ganja was dismissed by this Court vide order dated 16/04/2021. There is no change of circumstances after dismissal of the bail application of the accused on 16/04/2021 except the filing of the charge-sheet. In the present bail application, no fresh ground has been mentioned by the accused Ashok @ Ganja for the purpose of grant of bail. Merely because, the charge-sheet has been filed in the present case, is no ground for grant of regular bail. It is well settled law that successive bail applications can be filed on change of facts or circumstances of the case. Where the grounds taken in successive bail applications already agitated and rejected by the Court, the same cannot be ordinarily allowed to be re-agitated. If the subsequent bail application is filed on the same grounds as taken in the previous bail application, the subsequent bail application would be deemed to be seeking review of earlier order, which is not permissible under the criminal law.

In the present case, charge is yet to be framed and complainant/ public witnesses are yet to be examined and if the bail is granted to the accused, there is possibility that accused may tamper with the evidence and influence the witnesses. Accused had refused to join the judicial TIP proceedings. Accused is stated to be habitual offender and he is stated to be involved in six criminal cases of different nature.

The contentions of counsel for the accused Ashok @ Ganja that the accused has been falsely implicated in the present case and there is no incriminating evidence against him is not tenable at this stage as it is well settled law that at the stage of considering bail, it would not be proper for the Court to express any opinion on the merits or demerits of the prosecution case as well as defence.



Keeping in view the facts and circumstances of the case, gravity of offence and nature of serious allegations levelled against the accused, this Court is of the considered opinion that no ground for regular bail of the accused Ashok @ Ganja is made out at this stage. Accordingly, the present application for regular bail of the accused Ashok @ Ganja is dismissed.

A copy of this order be sent to the concerned Jail Superintendent through E-mail for information. Order be uploaded on the website of the Delhi District Court. Counsel for the accused is at liberty to collect the copy of present order through electronic mode.

TCR along with copy of this order be also sent to the Ld. Concerned Court/ MM.

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(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
26/06/2021(G)

FIR No.79/2021
PS Wazirabad
U/s 392/34 IPC
State Vs. Sachin Beniwal @ Gaurav @ Sonu

26/06/2021

Present 1st application u/s. 439 Cr.P. C has been filed on behalf of accused Sachin Beniwal @ Gaurav @ Sonu for grant of regular bail.

(Proceedings Convened through Video Conferencing)

Present: Sh. Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.)

None has joined the proceedings through V.C. on behalf of the accused Sachin Beniwal @ Gaurav @ Sonu.

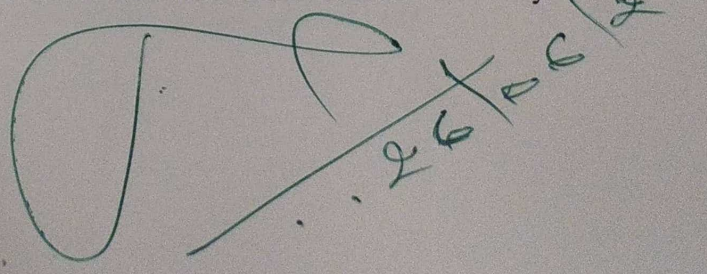
Ahlmad is absent.

TCR is already received.

By way of present order, this Court shall disposed of bail application u/s. 439 Cr.P.C. of the accused Sachin Beniwal @ Gaurav @ Sonu.

Arguments have already been heard on the aforesaid bail application of accused Sachin Beniwal @ Gaurav @ Sonu. Perused the material available on record.

During the course of arguments on the aforesaid bail application, it was submitted by counsel for the accused Sachin Beniwal @ Gaurav @ Sonu that the present bail application is the first bail application of the accused before Sessions Court after filing of the charge-sheet and no other bail application of the accused is pending before any other Court. It was further submitted that the accused has been falsely implicated in the present case and there is no incriminating evidence against the accused and investigation in the present case has already been completed and the accused is no more required for the purpose of further investigation as the charge-sheet has already been filed in the present case and same is pending before the concerned Ld. MM. It was further submitted that no recovery



has been effected from the possession of the accused. It was further submitted that accused is in J/C since 02/04/2021 and no useful purpose will be served by keeping the accused behind the bars and bail be granted to accused and accused shall be abide by all terms and conditions imposed by the court.

During the course of arguments, it was submitted by Addl. P.P. for the State that the allegations against the accused are serious in nature and accused can abscond, if the bail is granted to the accused. It was further submitted that co-accused are yet to be arrested and case property is yet to be recovered. It was further submitted that the complainant has duly identified the accused in the judicial TIP. It was further submitted that in the present case, charge is yet to be framed and complainant/ public witnesses are yet to be examined and if the bail is granted to the accused, he can tamper with the evidence and influence the witnesses. It was further submitted that accused is habitual offender and he is previously involved in eight criminal cases of different nature and accused had been convicted in two cases. It was further submitted that there is sufficient incriminating material is available on record against the accused and bail application of accused Sachin Beniwal @ Gaurav @ Sonu be dismissed.

It was held by the Hon'ble Supreme Court of India in case titled as **"Virupakshappa Gouda and Anr. Vs. State of Karnataka and Anr."** {(2017) 5 SCC 406} that :

> *"15. The court has to keep in mind what has been stated in **Chaman Lal v. State of U.P**. The requisite factors are: (i) the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence; (ii) reasonable apprehension of tampering with the witness or apprehension of threat to the complainant; and (iii) prima facie satisfaction of the court in support of the charge. In **Prasanta Kumar Sarkar v. Ashis Chatterjee**, it has been opined that while exercising the power for grant of bail, the*

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court has to keep in mind certain circumstances and factors. We may usefully reproduce the said passage:

"9....among other circumstances, the factors which are to be borne in mind while considering an application for bail are:

(i) whether there is any prima facie or reasonable ground to be believe that the accused had committed the offence.

(ii) nature and gravity of the accusation;

(iii) severity of the punishment in the event of conviction;

(iv) danger of the accused absconding or fleeing, if released on bail;

(v)character, behaviour, means, position and standing of the accused;

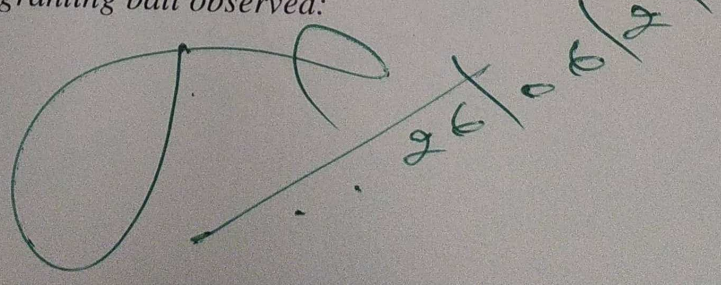
(vi) likelihood of the offence being repeated;

(vii)reasonable apprehension of the witnesses being influenced; and

(viii) danger, of course, of justice being thwarted by grant of bail."

*16. In **CBI v. V. Vijay Sai Reddy**, the Court had reiterated the principle by observing thus:-" 34. While granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words "reasonable grounds for believing"instead of "the evidence" which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."*

*17. From the aforesaid principles, it is quite clear that an order of bail cannot be granted in an arbitrary or fanciful manner. In this context, we may, with profit, reproduce a passage from **Neeru Yadav v. State of U.P.**, wherein the Court setting aside an order granting bail observed:*



"16.The issue that is presented before us is whether this Court can annul the order passed by the High Court and curtail the liberty of the second respondent? We are not oblivious of the fact that the liberty is a priceless treasure for a human being. It is founded on the bedrock of constitutional right and accentuated further on human rights principle. It is basically a natural right. In fact, some regard it as the grammar of life. No one would like to lose his liberty or barter it for all the wealth of the world. People from centuries have fought for liberty, for absence of liberty causes sense of emptiness. The sanctity of liberty is the fulcrum of any civilized society. It is a cardinal value on which the civilisation rests. It cannot be allowed to be paralysed and immobilized. Deprivation of liberty of a person has enormous impact on his mind as well as body. A democratic body polity which is wedded to rule of law, anxiously guards liberty. But, a pregnant and significant one, 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 collective and to the societal order. Accent on individual liberty cannot be pyramided to that extent which would bring chaos and anarchy to a society. A society expects responsibility and accountability from its members, and it desires that the citizens should obey the law, respecting it as a cherished social norm. No individual can make an attempt to create a concavity in the stem of social stream. It is impermissible. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly things which the society disapproves, the legal consequences are bound to follow. At that stage, the Court has a duty. It cannot abandon its sacrosanct obligation and pass an order at its own whim or caprice. It has to be guided by the established parameters of law."

It was held by the Hon'ble Supreme Court of India in case titled as **"Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and Anr."** {2004 Cri. L.J. 1796 (1)} that :

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"11. The law in regard to grant or refusal of bail is very well settled. The Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the Court granting bail to consider among other circumstances, the following factors also before granting bail; they are,

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence;

(b) Reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(c) Prima facie satisfaction of the Court in support of the charge.

12. In regard to cases where earlier bail applications have been rejected there is a further onus on the Court to consider the subsequent application for grant of bail by noticing the grounds on which earlier bail applications have been rejected and after such consideration if the Court is of the opinion that bail has to be granted then the said Court will have to give specific reasons why in spite of such earlier rejection the subsequent application for bail should be granted.

14. ..... In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail.

20. Before concluding, we must note though an accused has a right to make successive applications for grant of bail the Court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the Court also has a duty to record what are the fresh grounds which

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persuade it to take a view different from the one taken in the earlier applications....."

It was held by the Hon'ble Supreme Court of India in case titled as "**Satish Jaggi Vs. State of Chhatisgarh and Ors.**" {AIR 2007 SC (Supp) 256} that :

"5. It is well settled law that in granting or non-granting of bail in non-bailable offence, the primary consideration is the nature and gravity of the offence.....
12. .....At the stage of granting of bail, the court can only go into the question of the prima-facie case established for granting bail. It cannot go into the question of credibility and reliability of the witnesses put up by the prosecution. The question of credibility and reliability of prosecution witnesses can only be tested during the trial."

It was held by the Hon'ble Supreme Court of India in case titled as "**Gurucharan Singh & Others Vs. State**" {AIR 1978 SC 179 (1)} that :

"29. We may repeat the two paramount considerations, viz likelihood of the accused fleeing from justice and his tampering with prosecution evidence relate to ensuring a fair trial of the case in a court of justice. It is essential that due and proper weight should be bestowed on these two factors apart from others. There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or cancelling bail."

In the present case, charge-sheet has been filed for the offences u/s. 392/34 IPC. In the present case, charge is yet to be framed and complainant/ public witnesses are yet to be examined and if the bail is granted to the accused, there is possibility that accused may tamper with the evidence and influence the witnesses. The complainant has duly identified the accused in the judicial TIP proceedings.

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Accused is stated to be habitual offender and he is stated to be previously involved in eight criminal cases of different nature and he is stated to be convicted in two cases.

The contentions of counsel for the accused Sachin Beniwal @ Gaurav @ Sonu that the accused has been falsely implicated in the present case and there is no incriminating evidence against him is not tenable at this stage as it is well settled law that at the stage of considering bail, it would not be proper for the Court to express any opinion on the merits or demerits of the prosecution case as well as defence.

Keeping in view the facts and circumstances of the case, gravity of offence and nature of serious allegations levelled against the accused, this Court is of the considered opinion that no ground for regular bail of the accused Sachin Beniwal @ Gaurav @ Sonu is made out at this stage. Accordingly, the present application for regular bail of the accused Sachin Beniwal @ Gaurav @ Sonu is dismissed.

A copy of this order be sent to the concerned Jail Superintendent through E-mail for information. Order be uploaded on the website of the Delhi District Court. Counsel for the accused is at liberty to collect the copy of present order through electronic mode.

TCR along with copy of this order be also sent to the Ld. Concerned Court/ MM.

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(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
26/06/2021(G)

FIR No.415/2015
PS Kotwali
U/s 365/395/397/412/201/120B IPC & 25 Arms Act.
State Vs. Sunil & Ors.

26/06/2021

File taken up today on application for grant of interim bail of the accused Ajit for the period of 90 days as per HPC guidelines.

(Proceedings Convened through Video Conferencing)

Present: Sh Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).
IO/ SI Satish Kumar is present (through V.C.).
Sh. S. Chakraborty, Ld. Counsel for the accused Ajit (through V.C.).

Ahlmad is absent.

By way of present order, this Court shall disposed of interim bail application of the accused Ajit.

Arguments have already been heard on the aforesaid interim bail application of accused Ajit. Perused the material available on record.

During the course of arguments on the aforesaid interim bail application, it was submitted by counsel for the accused that in terms of directions dated 07/05/2021 given by the Hon'ble Supreme Court of India in Suo Moto Writ Petition No.(C)1/2020 and minutes of H.P.C. guidelines dated 04/05/2021 and 11/05/2021, the accused be released on interim bail for the period of 90 days. It was further submitted that case of the accused falls in the criteria no.(v) of minutes of H.P.C. guidelines dated 04/05/2021. It was further submitted that the accused has no previous involvement in any other case and jail conduct of the accused is good. It was further submitted that the accused is in J/C in the present case for the period of more than six years. It was further submitted that in the last year, two co-accused were granted interim bail as per the H.P.C guidelines, 2020. It was further submitted that the accused shall be abide by all terms and conditions, if the interim bail is granted to the accused and accused shall surrender after the interim bail period.

During the course of arguments on the aforesaid interim bail application, it was submitted by Addl. P.P. for the State that allegations against the accused are serious in nature and present interim bail application of the accused be dismissed. It was further submitted that interim bail application of the accused Sunil Rathore as per the H.P.C. guidelines was dismissed by this Court vide order dated 09/06/2021 and on the same footing, the present application is also not

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maintainable. It was further submitted that in view of the minutes of H.P.C. guidelines dated 04/05/2021 and 11/05/2021, the aforesaid interim bail application of the accused is not maintainable and same be dismissed.

It is mentioned in the minutes of H.P.C. guidelines dated 04/05/2021 that:-

> ***" (v) Under trial prisoners (UTPs), who are less than 60 years of age and are in custody for six months or more, facing trial in a case which prescribes a maximum sentence of 10 years or less, subject to the condition that he should not be involved in any other case which prescribes punishment of more than 7 years."***

In the present case, charge for the offences u/s. 365/395/397/412/120-B IPC has already been framed against the accused Ajit. Sections 395 and 412 IPC prescribed maximum punishment for life imprisonment. In view of the same, the case of the accused does not fall in aforesaid criteria no.(v) of minutes of H.P.C. guidelines dated 04/05/2021. It is pertinent to mention here that interim bail application of the accused Sunil Rathore as per the H.P.C. guidelines was dismissed by this Court vide order dated 09/06/2021 by same observations. Counsel for the accused has not filed any case law of Hon'ble Superior Courts to show that the interim bail as per minutes of H.P.C. guidelines dated 04/05/2021 and 11/05/2021 can be granted for the offences u/s. 395/412 IPC. In view of the criteria/recommendations of minutes of H.P.C. guidelines dated 04/05/2021 and 11/05/2021, the present interim bail application of the accused is not maintainable. Keeping in view the directions dated 07/05/2021 passed by the Hon'ble Supreme Court of India and H.P.C. guidelines dated 04/05/2021 and 11/05/2021, facts and circumstances of the case, gravity of offence and nature of serious allegations levelled against the accused, this Court is of the considered opinion that no ground for interim bail of accused is made out. Accordingly, the present interim bail application of the accused Ajit is dismissed.

A copy of this order be sent to the concerned Jail Superintendent through e-mail for information and necessary action. Copy of order be also sent to DLSA, Central District, Delhi. Counsel for the accused is at liberty to collect the copy of present order through electronic mode.

Order be uploaded on the website of Delhi District Court.

26/06/21

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
26/06/2021(G)

FIR No.415/2015
PS Kotwali
U/s 365/395/397/412/201/120B IPC & 25 Arms Act.
State Vs. Sunil & Ors.

26/06/2021

File taken up today on application for grant of interim bail of the accused Sonu for the period of 90 days as per HPC guidelines.

(Proceedings Convened through Video Conferencing)

Present: Sh Gyan Prakash Ray, Ld. Addl. P.P. for the State (through V.C.).

IO/ SI Satish Kumar is present (through V.C.).

Sh. Ashish Verma, Ld. Counsel for the accused Sonu (through V.C.).

Ahlmad is absent.

By way of present order, this Court shall disposed of interim bail application of the accused Sonu.

Arguments have already been heard on the aforesaid interim bail application of accused Sonu. Perused the material available on record.

During the course of arguments on the aforesaid interim bail application, it was submitted by counsel for the accused that in terms of directions dated 07/05/2021 given by the Hon'ble Supreme Court of India in Suo Moto Writ Petition No.(C)1/2020 and minutes of H.P.C. guidelines dated 04/05/2021 and 11/05/2021, the accused be released on interim bail for the period of 90 days. It was further submitted that case of the accused falls in the criteria no.(xii) of minutes of H.P.C. guidelines dated 11/05/2021. It was further submitted that the accused has no previous involvement in any other case and jail conduct of the accused is satisfactory. It was further submitted that the accused is in J/C in the present case for the period of more than six years. It was further submitted that in the last year, two co-accused were granted interim bail as per the H.P.C guidelines, 2020. It was further submitted that the accused shall be abide by all terms and conditions, if the interim bail is granted to the accused and accused shall surrender after the interim bail period.

During the course of arguments on the aforesaid interim bail application, it was submitted by Addl. P.P. for the State that allegations against the accused are serious in nature and present interim bail application of the accused be dismissed. It was further submitted that

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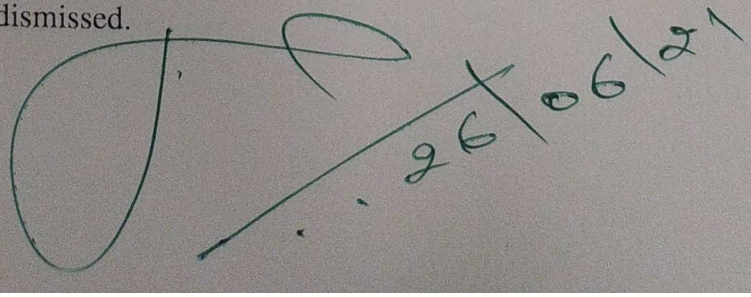
interim bail application of the co-accused Sunil Rathore as per the H.P.C. guidelines was dismissed by this Court vide order dated 09/06/2021 and on the same footing, the present application is also not maintainable. It was further submitted that in view of the minutes of H.P.C. guidelines dated 04/05/2021 and 11/05/2021, the aforesaid interim bail application of the accused is not maintainable and same be dismissed.

It is mentioned in the minutes of H.P.C. guidelines dated 11/05/2021that:-

"(xii) Under trial prisoners (UTPs) facing trial for a case under Section 302 IPC and are in jail for more than two years with no involvement in any other case."

In the present case, charge for the offences u/s. 365/395/397/412/120-B IPC has already been framed against the accused Sonu. Counsel for the accused is seeking interim bail as per aforesaid criteria no.(xii). The aforesaid criteria no.(xii) of H.P.C. guidelines dated 11/05/2021 specifically talks about the offence u/s. 302 IPC. Admittedly, charge for the offence u/s. 302 IPC has not been framed in the present case. In view of the same, the case of the accused does not fall in aforesaid criteria no.(xii) of minutes of H.P.C. guidelines dated 11/05/2021. It is pertinent to mention here that interim bail application of the accused Sunil Rathore as per the H.P.C. guidelines was dismissed by this Court vide order dated 09/06/2021. Sections 395 and 412 IPC prescribed maximum punishment for life imprisonment. Counsel for the accused has not filed any case law of Hon'ble Superior Courts to show that the interim bail as per minutes of H.P.C. guidelines dated 04/05/2021 and 11/05/2021 can be granted for the offences u/s. 395/412 IPC. In view of the criteria/recommendations of minutes of H.P.C. guidelines dated 04/05/2021 and 11/05/2021, the present interim bail application of the accused is not maintainable. Keeping in view the directions dated 07/05/2021 passed by the Hon'ble Supreme Court of India and H.P.C. guidelines dated 04/05/2021 and 11/05/2021, facts and circumstances of the case, gravity of offence and nature of serious allegations levelled against the accused, this Court is of the considered opinion that no ground for interim bail of accused is made out. Accordingly, the present interim bail application of the accused Sonu is dismissed.



A copy of this order be sent to the concerned Jail Superintendent through e-mail for information and necessary action. Copy of order be also sent to DLSA, Central District, Delhi. Counsel for the accused is at liberty to collect the copy of present order through electronic mode.

Order be uploaded on the website of Delhi District Court.

26/6/21

(Vijay Shankar)
ASJ-05, Central District
Tis Hazari Courts, Delhi
26/06/2021(G)