

E FIR No.94/21
PS Rajouri Garden
State Vs. Rajender @ Babu
u/s 25 Arms Act

19.06.2021

Proceedings through VC

Present: None for the state.

Sh. Rakesh Kumar, Ld. Counsel for the accused/ applicant.

This is an application for grant of bail to accused Rajender @ Babu,
S/o Prem Kumar 437 CrPC.

Reply has been file by the IO alongwith the previous involvement
report.

It is argued by Ld. counsel for the accused/ applicant that the
accused has been falsely implicated in the present case and is languishing in
custody since 03.02.2021. Ld. counsel for the accused/ applicant has argued that
charge sheet has been already filed and no purpose shall be served by detaining
the accused in custody for any further period. Ld counsel has further submitted
that benefit of bail be granted to the accused 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.

None has opposed the application on behalf of the state.

Heard. Record perused.

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."

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Record reveals that a previous bail application of the accused, post the filing of the charge sheet has been dismissed vide order dated 23.03.2021. However, thereafter the regular functioning of the court has been suspended. Ld. Counsel for the accused/ applicant has pointed out that the accused is languishing in custody since 03.02.2021. In view of the fact that the regular functioning of the court has been suspended, trial is likely to take a long time to conclude and this is substantial change in circumstance, in favour of the accused. The reply of the IO also does not show any cogent ground requiring the further custodial detention of the accused. Although the accused has numerous previous involvements, as per the report of the IO the accused has not been convicted in any of the cases 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 **Rajender @ Babu, S/o Prem Kumar** 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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(Medha Arya)
MM-02(West)/THC/Delhi
19.06.2021

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