

FIR No.03/2020
P.S. Wazirabad
U/s 323/341/308/174-A/34 IPC
State Vs. Ankit Kumar

04.08.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad through Video Conferencing Mode.

Present application moved for accused Ankit Kumar under Section 438 Cr.P.C., for grant of anticipatory bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for State through VC.
Sh. Maharaj Singh Dedha, Ld. Counsel for
accused/applicant through VC.

Perusal of record would show that earlier bail application has already been heard and decided by the Court of Dr. Kamini Lau, Ld. Judge, MACT (Central), Tis Hazari Courts, Delhi. Accordingly, in view of the **judgment passed by Hon'ble Supreme Court in case titled as Jagmohan Bahl & Anr. Vs. State (NCT of Delhi) & Anr. Criminal Appeal no. 2335 of 2014 dated 18.12.2014**, the bail application is requested to be placed before the same court.

Let the matter be put up before the Court of Dr. Kamini Lau, Ld. Judge (MACT)-01, Central, THC Delhi for 18.08.2021.

Ahlmad to send the records accordingly.

Copy of order be uploaded on the website.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/04.08.2021

Bail Application No.1974/21
FIR No.201/2021
P.S. Gulabi Bagh
U/s 3(1)(r)/3 (1)(S) The SC & ST
(POA) Act, 1989 & 354/354-A /506/509 IPC
State Vs. Pritam Singh Sandhu

04.08.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad through Video Conferencing Mode.

This is an application moved for accused Pritam Singh Sandhu under Section 438 Cr.P.C., for grant of anticipatory bail.

Present: Mr. Balbir Singh, Ld. Addl. PP for State through VC.

Mr. Amanpreet Singh and Mr. G.P. Singh Ld.

Counsels for accused/applicant through VC.

Mr. Rakesh Tyagi, ACP Sarai Rohilla through VC.

The present bail application pertains to *inter alia* Sections 3(1)(r)/3 (1)(S) of the SC & ST (POA) Act, 1989, which is a Special Act. Accordingly, in view of Order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 of Ld. Principal District & Sessions Judge (HQs), Delhi, present application be transferred to the Court of Dr. Kamini Lau, Ld. Judge, MACT (Central), Tis Hazari Courts, Delhi for 05.08.2021.

Copy of order be uploaded on the website.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/04.08.2021

Bail Application No.2049/21
FIR No.17/2020
P.S. Civil Lines
U/s 498-A/406/506/376/323/34 IPC
State Vs. Niyaz Mohd.

04.08.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad through Video Conferencing Mode.

This is fresh application moved for accused Niyaz Mohd under Section 438 Cr.P.C., for grant of anticipatory bail.

Present: Sh. Balbir Singh, Ld. Addl. PP for State through VC.
Sh. T.A. Rajpot, Ld. Counsel for accused/applicant through VC.

Let reply of the application be called from IO/SHO for NDOH.

List for arguments on the application on 09.08.2021.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/04.08.2021

Bail Application No.2046/21
FIR No.745/2015
P.S. Roop Nagar
U/s 380/451/34 IPC
State Vs. Roshan Singh

04.08.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad through Video Conferencing Mode.

This is an application moved for accused Roshan Singh for grant of interim bail under HPC guidelines.

Present: Sh. Balbir Singh, Ld. Addl. PP for State through VC.
Mr. Shiv Kumar, Ld. Counsel for accused/applicant through VC.

Let reply of the application be called from IO/SHO for NDOH. Also issue notice to the Jail Superintendent to furnish period of custody, nominal roll as well as Jail Conduct of the applicant/accused on NDOH.

List for arguments on the application on 09.08.2021.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/04.08.2021

**IN THE COURT OF SH. ARUL VARMA, ADDL. SESSIONS JUDGE/
SPECIAL JUDGE, ELECTRICITY, COURT NO. 2, CENTRAL, THC**

Bail Application No. 2012/21
FIR No. 325/2021
U/s 341/324/308 IPC
P.S. Subzi Mandi
State Vs. Nazim

04.08.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad Video Conferencing Mode.

Present application u/s 439 Cr.P.C. has been filed on behalf of accused Nazim for grant of interim bail under HPC guidelines.

Present: Sh. Balbir Singh, Ld. Addl. PP for State through VC.

Sh. Sohrab Khan, Ld. Counsel for the applicant through VC.

1. Vide this Order, I shall dispose off the Interim Bail application filed on behalf of the accused as per criteria setout by High Powered Committee.
2. Ld Counsel for the applicant / accused submitted that the accused falls under the category as mentioned by High Powered Committee vide its minutes of meetings dated 04.05.2021. Ld. Counsel submitted that applicant is in J/C since 31.05.2021 and that sections invoked against the accused are not punishable for a period of more than 7 years.
3. A perusal of Minutes of Meeting dated 04.05.2021, wherein the HPC identified class / category of persons who may be released on interim bail for a period of 90 days, for decongestion of jails shows that applicant is covered

Contd.....

under the clause wherein it has been mentioned that **Under trial prisoners (UTPs)** who are facing trial in a case which prescribes a maximum sentence of **7 years** or less wherein he / she is in custody for a period of **15 days or more** be released on interim bail for a period of 90 days.

4. A perusal of the report dated 31.07.2021 sent by Dy. Superintendent, Central Jail, Tihar reveals that accused has spent two months and one day in the custody, and is squarely covered by the criteria laid down by the High Powered Committee vide its minutes of meeting mentioned above.

5. Since the accused fulfils the criteria laid down above, he is hereby granted interim bail of 90 days and released on bail on personal bond for the sum of Rs. 20,000/- to the satisfaction of the Jail Superintendent.

6. Copy of this order be sent to concerned Jail Superintendent for necessary action via official email ID. The order be also uploaded on the District Courts website forthwith.

7. Order be uploaded on the website of Delhi District Courts.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/04.08.2021

**IN THE COURT OF SH. ARUL VARMA, ADDL. SESSIONS JUDGE/
SPECIAL JUDGE, ELECTRICITY, COURT NO. 2, CENTRAL, THC**

Bail Application No. 1972/21
FIR No. 535/21
U/s 498A/406/34 IPC
P.S. Wazirabad
State Vs. Kusumlata Saini

04.08.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad Video Conferencing Mode.

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

Present: Sh. Balbir Singh, Ld. Addl. PP for the State through VC.
Sh. Subodh Kumar, Ld. Counsel for applicant through VC.
IO/ASI Roop Singh is present through VC.
Report of IO received.

ORDER ON ANTICIPATORY BAIL APPLICATION

1. Vide this order, this Court shall adjudicate upon the anticipatory bail application filed on behalf of the accused. Arguments were heard *in extenso*, the gist whereof is discussed hereunder.
2. Ld. Counsel for applicant / accused submitted that applicant is mother-in-law of the complainant. He further submitted that

husband of applicant Kusumlata Saini namely Om Prakash Saini who is co-applicant had debarred Umang Saini/co-applicant and complainant herein from his movable and immovable properties, and also had severed all his relations with both of them by publishing a public notice in vernacular newspaper Jansatta. It was thus submitted that complainant did not reside with the family. He further submitted that complainant had already taken all her stridhan articles and belongings from the house of the applicant on 26.07.2020 in the presence of police officials of P.S. Anand Parbat and her friend namely Rupali.

3. *Per contra*, Ld. Addl. PP for the State alongwith IO vehemently opposed the present anticipatory bail application as per law.
4. Submissions heard and record perused.
5. A perusal of record reveals that as per the Ld. Counsel for applicant, the complainant had left the matrimonial home alongwith the stridhan and other belongings in the presence of police officials of P.S. Anand Parbat and her friend Rupali on 26.07.2020. This fact has not been controverted to by the State.
6. In matters pertaining to matrimonial dispute, it would be apposite to refer to the following extract of ***Udit Raj Poonia Vs. State (Government of NCT of Delhi) 2017 (1) DLT (Cri) 805 :-***

“23. This Court is of the considered opinion that in matters of matrimonial cases, the Investigating Officer is required to first make out whether any article is to be recovered. In case, he is of the view that any article is to be

recovered then he is to decide whether the custodial interrogation of any of the accused is required for the purpose of recovery of article. Without reaching to the conclusion with regard to recovery of article, whether it is stridhan article or any other article, the Investigating Officer is not to arrest the person for the recovery of the same.

24. Similarly, the bail application ought not be rejected for setting the scores between the parties.

25. As per the discussions made above, this Court view that :

****Provisions of Section 41 Cr.P.C. and the guidelines issued vide Standing Order Nos. 330/2008 and 444/2016 are mandatory in nature and must be complied with***

****The DCP/ACP shall ensure that the alleged articles are in existence and the recovery/seizure could take place without the arrest, in other words, that arrest is the only mode in the facts and circumstances to effect the recovery before granting the sanction to arrest.***

****Similarly, the Court while considering the bail under Section 437, 438, 439 Cr.P.C. shall refuse the bail in exceptional circumstances.***

**** The exceptional circumstances may be assessed by the court concerned and the bail application must be decided expeditiously.***

****In the matrimonial cases bail is a rule and refusal is an exception.”***

7. The factum of filing a petition by Umang Saini co-applicant u/s 9 of Hindu Marriage Act, 1956 for Restitution of Conjugal Rights is revelatory of the stance that the husband of the complainant seems to have adopted i.e. continuance of marital ties. This fact

coupled with the averments of Ld. Counsel for applicant that husband Umang Saini/co-applicant tried his best to save his married life reflects that there is scope for hearts to melt and for the parties riven asunder to be restored to *status quo ante* position. Incarcerating the applicant may tantamount to crossing the Rubicon, for an arrest of family members / co-applicants / applicant herein may obviate chances of reconciliation, if any. Thus, this Court does not deem it fit to allow apprehension of the applicant by the police at this juncture, so long as the applicant cooperates and joins the investigation as and when called for. Accordingly, applicant is granted anticipatory bail on the following conditions:-

- a) In the event of arrest, applicant shall be released on anticipatory bail on furnishing a personal bond in the sum of Rs. 20,000/- with one surety of the like amount to the satisfaction of the SHO/IO.
- b) The applicant is directed not to leave the country without intimation to the IO.
- c) The applicant shall join investigation as and when called for and shall return all the dowry articles.
- d) The applicant is directed to give all her mobile numbers to the Investigating Officer and keep them operational at all times.
- e) The applicant shall give her address to the IO and if she changes the address she shall intimate the same to the IO.

- f) The applicant shall not, directly or indirectly, contact or pressurize, complainant or any other witness. In case any complaint is received from the complainant that the applicant is trying to contact him / her and trying to put pressure on him/her then the protection granted by this Court shall stand cancelled.
8. Needless to say, the abovementioned observations are predicated solely on the facts as alleged, and brought forth at this juncture, and are not findings on merits, and would also have no bearing on the merits of the case. With these conditions, and observations, the anticipatory bail application stands disposed off.
9. Copy of the order be uploaded on the website of the District Court.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/04.08.2021

**IN THE COURT OF SH. ARUL VARMA, ADDL. SESSIONS JUDGE/
SPECIAL JUDGE, ELECTRICITY, COURT NO. 2, CENTRAL, THC**

Bail Application No. 1953/21

FIR No. 98/21

U/s 307/411/120B/34 IPC

P.S. Burari

State Vs. Naveid Khan

04.08.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad Video Conferencing Mode.

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

Present: Sh. Balbir Singh, Ld. Addl. PP for State through VC.

Sh. Farahim Khan, Ld. Counsel for the applicant through

VC.

IO/SI Suresh Bhatia is present through VC.

On the previous date of hearing, there was a controversy as to who was representing the applicant. This controversy has been put to rest as SI Suresh Bhatia has stated that he contacted Sh. Ankit Dhawan, Advocate who made submission on behalf of the applicant, and has submitted that the said Sh. Ankit Dhawan, Advocate is no longer a counsel in the present case.

Under these circumstances, this Court shall now proceed to hear Sh. Farahim Khan, Ld. Counsel for the applicant.

Ld. Counsel for applicant /accused submitted that applicant is in J/C since 20.02.2021, and charge sheet has already been filed. He further submitted that the only role attributed to the applicant is that he was driving the motorcycle. It was submitted that co-accused Amit has already been granted bail by this Court. It was submitted that incident of causing injury was caused by Imran, who was the pillion rider. He further submitted that no recovery is to be effected from the applicant, and motorcycle used in the commission of the offence has already been recovered. Ld. Counsel submitted that no motive has been ascribed to the applicant, and he has been falsely implicated in the present case and thus he ought to be granted bail.

Per *contra*, Ld Addl. PP for the State alongwith with the IO, vehemently opposed the bail application as per law. Ld. Addl. PP for the State submitted that applicant was hired by co-accused Naseem to come especially from Amroha to commit the offence in Delhi. He also submitted that a 15 cm deep cut has been inflicted upon the complainant in the occipital region, which is a grievous injury. It was also submitted that applicant involved in the commission of the similar offence in U.P.

Submission heard and record perused.

A perusal of record reveals that applicant had a previous involvement under similar sections in a case registered in U.P. namely FIR No. 0316/17, P.S. Amroha wherein allegations of using a Tamancha to commit the offence, were levelled against the applicant. During the course of arguments IO had submitted that applicant herein was was a friend of co-accused Imran. Co-accused Imran and Naseem were were lodged together in jail, and according to Ld. Addl. PP for the State they hatched the plan to commit this offence thereat, and roped in applicant herein. It was also brought to the fore that the

applicant was identified in the CCTV footage by matching the clothes worn by him with those captured in the CCTV footage. Further, as per reply of the IO, the applicant refused to get TIP conducted.

Under these circumstances, taking into the account the gravity of the offence, severity of the punishment that the offence entails and the role attributed to the accused herein, this Court is of the opinion that the accused ought not to be granted bail at this juncture. Accordingly, the present bail application is hereby dismissed.

Needless to say, the abovementioned observations are predicated solely on the facts as alleged, and brought forth at this juncture, and are not findings on merits, and would also have no bearing on the merits of the case. With these conditions, and observations, the bail application stands disposed off.

Copy of the order be uploaded on the website of the District Court.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/04.08.2021

**IN THE COURT OF SH. ARUL VARMA, ADDL. SESSIONS JUDGE/
SPECIAL JUDGE, ELECTRICITY, COURT NO. 2, CENTRAL, THC**

Bail Application No. 1973/21
FIR No. 535/21
U/s 498A/406/34 IPC
P.S. Wazirabad
State Vs. Neeraj Saini

04.08.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad Video Conferencing Mode.

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

Present: Sh. Balbir Singh, Ld. Addl. PP for the State through VC.
Sh. Subodh Kumar, Ld. Counsel for applicant through VC.
IO/ASI Roop Singh is present through VC.
Report of IO received.

ORDER ON ANTICIPATORY BAIL APPLICATION

1. Vide this order, this Court shall adjudicate upon the anticipatory bail application filed on behalf of the accused. Arguments were heard *in extenso*, the gist whereof is discussed hereunder.
2. Ld. Counsel for applicant / accused submitted that applicant is brother-in-law (Jeth) of the complainant. He further submitted

that father of applicant Neeraj Saini namely Om Prakash Saini who is co-applicant had debarred Umang Saini/co-applicant and complainant herein from his movable and immovable properties, and also had severed all his relations with both of them by publishing a public notice in vernacular newspaper Jansatta. It was thus submitted that complainant did not reside with the family. He further submitted that complainant had already taken all her stridhan articles and belongings from the house of the applicant on 26.07.2020 in the presence of police officials of P.S. Anand Parbat and her friend namely Rupali.

3. *Per contra*, Ld. Addl. PP for the State alongwith IO vehemently opposed the present anticipatory bail application as per law.
4. Submissions heard and record perused.
5. A perusal of record reveals that as per the Ld. Counsel for applicant, the complainant had left the matrimonial home alongwith the stridhan and other belongings in the presence of police officials of P.S. Anand Parbat and her friend Rupali on 26.07.2020. This fact has not been controverted to by the State.
6. In matters pertaining to matrimonial dispute, it would be apposite to refer to the following extract of ***Udit Raj Poonia Vs. State (Government of NCT of Delhi) 2017 (1) DLT (Cri) 805 :-***

“23. This Court is of the considered opinion that in matters of matrimonial cases, the Investigating Officer is required to first make out whether any article is to be recovered. In case, he is of the view that any article is to be

recovered then he is to decide whether the custodial interrogation of any of the accused is required for the purpose of recovery of article. Without reaching to the conclusion with regard to recovery of article, whether it is stridhan article or any other article, the Investigating Officer is not to arrest the person for the recovery of the same.

24. Similarly, the bail application ought not be rejected for setting the scores between the parties.

25. As per the discussions made above, this Court view that :

****Provisions of Section 41 Cr.P.C. and the guidelines issued vide Standing Order Nos. 330/2008 and 444/2016 are mandatory in nature and must be complied with***

****The DCP/ACP shall ensure that the alleged articles are in existence and the recovery/seizure could take place without the arrest, in other words, that arrest is the only mode in the facts and circumstances to effect the recovery before granting the sanction to arrest.***

****Similarly, the Court while considering the bail under Section 437, 438, 439 Cr.P.C. shall refuse the bail in exceptional circumstances.***

**** The exceptional circumstances may be assessed by the court concerned and the bail application must be decided expeditiously.***

****In the matrimonial cases bail is a rule and refusal is an exception.”***

7. The factum of filing a petition by Umang Saini co-applicant u/s 9 of Hindu Marriage Act, 1956 for Restitution of Conjugal Rights is revelatory of the stance that the husband of the complainant seems to have adopted i.e. continuance of marital ties. This fact

coupled with the averments of Ld. Counsel for applicant that husband Umang Saini/co-applicant tried his best to save his married life reflects that there is scope for hearts to melt and for the parties riven asunder to be restored to *status quo ante* position. Incarcerating the applicant may tantamount to crossing the Rubicon, for an arrest of family members / co-applicants / applicant herein may obviate chances of reconciliation, if any. Thus, this Court does not deem it fit to allow apprehension of the applicant by the police at this juncture, so long as the applicant cooperates and joins the investigation as and when called for. Accordingly, applicant is granted anticipatory bail on the following conditions:-

- a) In the event of arrest, applicant shall be released on anticipatory bail on furnishing a personal bond in the sum of Rs. 20,000/- with one surety of the like amount to the satisfaction of the SHO/IO.
- b) The applicant is directed not to leave the country without intimation to the IO.
- c) The applicant shall join investigation as and when called for and shall return all the dowry articles.
- d) The applicant is directed to give all his mobile numbers to the Investigating Officer and keep them operational at all times.
- e) The applicant shall give his address to the IO and if he changes the address he shall intimate the same to the IO.

- f) The applicant shall not, directly or indirectly, contact or pressurize, complainant or any other witness. In case any complaint is received from the complainant that the applicant is trying to contact him / her and trying to put pressure on him/her then the protection granted by this Court shall stand cancelled.
8. Needless to say, the abovementioned observations are predicated solely on the facts as alleged, and brought forth at this juncture, and are not findings on merits, and would also have no bearing on the merits of the case. With these conditions, and observations, the anticipatory bail application stands disposed off.
9. Copy of the order be uploaded on the website of the District Court.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/04.08.2021

**IN THE COURT OF SH. ARUL VARMA, ADDL. SESSIONS JUDGE/
SPECIAL JUDGE, ELECTRICITY, COURT NO. 2, CENTRAL, THC**

Bail Application No. 1971/21
FIR No. 535/21
U/s 498A/406/34 IPC
P.S. Wazirabad
State Vs. Om Prakash Saini

04.08.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad Video Conferencing Mode.

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

Present: Sh. Balbir Singh, Ld. Addl. PP for the State through VC.
Sh. Subodh Kumar, Ld. Counsel for applicant through VC.
IO/ASI Roop Singh is present through VC.
Report of IO received.

ORDER ON ANTICIPATORY BAIL APPLICATION

1. Vide this order, this Court shall adjudicate upon the anticipatory bail application filed on behalf of the accused. Arguments were heard *in extenso*, the gist whereof is discussed hereunder.
2. Ld. Counsel for applicant / accused submitted that applicant is ready and willing to join the investigation. He submitted that

applicant is father-in-law of the complainant and is a senior citizen aged 67 years. He further submitted that applicant had debarred Umang Saini/co-applicant and complainant herein from his movable and immovable properties, and also had severed all his relations with both of them by publishing a public notice in vernacular newspaper Jansatta. It was thus submitted that complainant did not reside with the family. He further submitted that complainant had already taken all her stridhan articles and belongings from the house of the applicant on 26.07.2020 in the presence of police officials of P.S. Anand Parbat and her friend namely Rupali.

3. *Per contra*, Ld. Addl. PP for the State alongwith IO vehemently opposed the present anticipatory bail application as per law.
4. Submissions heard and record perused.
5. A perusal of record reveals that as per the Ld. Counsel for applicant, the complainant had left the matrimonial home alongwith the stridhan and other belongings in the presence of police officials of P.S. Anand Parbat and her friend Rupali on 26.07.2020. This fact has not been controverted to by the State.
6. In matters pertaining to matrimonial dispute, it would be apposite to refer to the following extract of ***Udit Raj Poonia Vs. State (Government of NCT of Delhi) 2017 (1) DLT (Cri) 805 :-***

“23. This Court is of the considered opinion that in matters of matrimonial cases, the Investigating Officer is

required to first make out whether any article is to be recovered. In case, he is of the view that any article is to be recovered then he is to decide whether the custodial interrogation of any of the accused is required for the purpose of recovery of article. Without reaching to the conclusion with regard to recovery of article, whether it is stridhan article or any other article, the Investigating Officer is not to arrest the person for the recovery of the same.

24. Similarly, the bail application ought not be rejected for setting the scores between the parties.

25. As per the discussions made above, this Court view that :

****Provisions of Section 41 Cr.P.C. and the guidelines issued vide Standing Order Nos. 330/2008 and 444/2016 are mandatory in nature and must be complied with***

****The DCP/ACP shall ensure that the alleged articles are in existence and the recovery/seizure could take place without the arrest, in other words, that arrest is the only mode in the facts and circumstances to effect the recovery before granting the sanction to arrest.***

****Similarly, the Court while considering the bail under Section 437, 438, 439 Cr.P.C. shall refuse the bail in exceptional circumstances.***

**** The exceptional circumstances may be assessed by the court concerned and the bail application must be decided expeditiously.***

****In the matrimonial cases bail is a rule and refusal is an exception.”***

7. The factum of filing a petition by Umang Saini co-applicant u/s 9 of Hindu Marriage Act, 1956 for Restitution of Conjugal Rights is

revelatory of the stance that the husband of the complainant seems to have adopted i.e. continuance of marital ties. This fact coupled with the averments of Ld. Counsel for applicant that husband Umang Saini/co-applicant tried his best to save his married life reflects that there is scope for hearts to melt and for the parties riven asunder to be restored to *status quo ante* position. Incarcerating the applicant may tantamount to crossing the Rubicon, for an arrest of family members / co-applicants/ applicant herein may obviate chances of reconciliation, if any. Thus, this Court does not deem it fit to allow apprehension of the applicant by the police at this juncture, so long as the applicant cooperates and joins the investigation as and when called for. Accordingly, applicant is granted anticipatory bail on the following conditions:-

- a) In the event of arrest, applicant shall be released on anticipatory bail on furnishing a personal bond in the sum of Rs. 20,000/- with one surety of the like amount to the satisfaction of the SHO/IO.
- b) The applicant is directed not to leave the country without intimation to the IO.
- c) The applicant shall join investigation as and when called for and shall return all the dowry articles.
- d) The applicant is directed to give all his mobile numbers to the Investigating Officer and keep them operational at all times.

- e) The applicant shall give his address to the IO and if he changes the address he shall intimate the same to the IO.
 - f) The applicant shall not, directly or indirectly, contact or pressurize, complainant or any other witness. In case any complaint is received from the complainant that the applicant is trying to contact him / her and trying to put pressure on him/her then the protection granted by this Court shall stand cancelled.
8. Needless to say, the abovementioned observations are predicated solely on the facts as alleged, and brought forth at this juncture, and are not findings on merits, and would also have no bearing on the merits of the case. With these conditions, and observations, the anticipatory bail application stands disposed off.
9. Copy of the order be uploaded on the website of the District Court.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/04.08.2021

**IN THE COURT OF SH. ARUL VARMA, ADDL. SESSIONS JUDGE/
SPECIAL JUDGE, ELECTRICITY, COURT NO. 2, CENTRAL, THC**

Bail Application No. 1970/21
FIR No. 535/21
U/s 498A/406/34 IPC
P.S. Wazirabad
State Vs. Umang Saini

04.08.2021

Vide order No. 887/37133-168/Bail Power/Gaz/2021 dated 01.07.2021 issued by Ld. Principal District & Sessions Judge (HQs), Delhi, the undersigned has been authorized to dispose of bail / urgent criminal applications pertaining to the PS Pratap Nagar (Gulabi Bagh), Civil Lines, Roop Nagar, Timarpur, Burari, Subzi Mandi, Bara Hindu Rao, Maurice Nagar, Crime Branch of Central Police District and Wazirabad Video Conferencing Mode.

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

Present: Sh. Balbir Singh, Ld. Addl. PP for the State through VC.
Sh. Subodh Kumar, Ld. Counsel for applicant through VC.
IO/ASI Roop Singh is present through VC.
Report of IO received.

ORDER ON ANTICIPATORY BAIL APPLICATION

1. Vide this order, this Court shall adjudicate upon the anticipatory bail application filed on behalf of the accused. Arguments were heard *in extenso*, the gist whereof is discussed hereunder.
2. Ld. Counsel for applicant / accused submitted that applicant is the husband of the complainant and is ready and willing to join the

investigation. He further submitted that father of the applicant had debarred him and complainant herein from his movable and immovable properties, and also had severed all his relations with both of them by publishing a public notice in vernacular newspaper Jansatta. It was thus submitted that complainant did not reside with the family. He further submitted that complainant had already taken all her stridhan articles and belongings from the house of the applicant on 26.07.2020 in the presence of police officials of P.S. Anand Parbat and her friend namely Rupali. Ld. Counsel further submitted that applicant complainant left the house on her own, and for resumption of matrimonial life, applicant Umang Saini has already filed a case of Restitution of Conjugal Rights u/s 9 of Hindi Marriage Act, 1956.

3. *Per contra*, Ld. Addl. PP for the State alongwith IO vehemently opposed the present anticipatory bail application as per law.
4. Submissions heard and record perused.
5. A perusal of record reveals that as per the Ld. Counsel for applicant, the complainant had left the matrimonial home alongwith the stridhan and other belongings in the presence of police officials of P.S. Anand Parbat and her friend Rupali on 26.07.2020. This fact has not been controverted to by the State. Further, the factum of filing of petition u/s 9 HMA for Restitution of Conjugal Rights is revelatory of factum of willingness to continue with the matrimonial life with the complainant.

6. In matters pertaining to matrimonial dispute, it would be apposite to refer to the following extract of **Udit Raj Poonia Vs. State (Government of NCT of Delhi) 2017 (1) DLT (Cri) 805 :-**

“23. This Court is of the considered opinion that in matters of matrimonial cases, the Investigating Officer is required to first make out whether any article is to be recovered. In case, he is of the view that any article is to be recovered then he is to decide whether the custodial interrogation of any of the accused is required for the purpose of recovery of article. Without reaching to the conclusion with regard to recovery of article, whether it is stridhan article or any other article, the Investigating Officer is not to arrest the person for the recovery of the same.

24. Similarly, the bail application ought not be rejected for setting the scores between the parties.

25. As per the discussions made above, this Court view that :

****Provisions of Section 41 Cr.P.C. and the guidelines issued vide Standing Order Nos. 330/2008 and 444/2016 are mandatory in nature and must be complied with***

****The DCP/ACP shall ensure that the alleged articles are in existence and the recovery/seizure could take place without the arrest, in other words, that arrest is the only mode in the facts and circumstances to effect the recovery before granting the sanction to arrest.***

****Similarly, the Court while considering the bail under Section 437, 438, 439 Cr.P.C. shall refused the bail in exceptional circumstances.***

**** The exceptional circumstances may be assessed by the court concerned and the bail application must be decided expeditiously.***

****In the matrimonial cases bail is a rule and refusal is an exception.****

7. The factum of filing a petition by applicant Umang Saini u/s 9 of Hindu Marriage Act, 1956 for Restitution of Conjugal Rights is revelatory of the stance that the applicant/husband of the complainant seems to have adopted i.e. continuance of marital ties. This fact coupled with the averments of Ld. Counsel for applicant that applicant tried his best to save his married life reflects that there is scope for hearts to melt and for the parties riven asunder to be restored to *status quo ante* position. Incarcerating the applicant may tantamount to crossing the Rubicon, for an arrest of family members / co-applicants / applicant herein may obviate chances of reconciliation, if any. Thus, this Court does not deem it fit to allow apprehension of the applicant by the police at this juncture, so long as the applicant cooperates and joins the investigation as and when called for. Accordingly, applicant is granted anticipatory bail on the following conditions:-

- a) In the event of arrest, applicant shall be released on anticipatory bail on furnishing a personal bond in the sum of Rs. 20,000/- with one surety of the like amount to the satisfaction of the SHO/IO.
- b) The applicant is directed not to leave the country without intimation to the IO.

- c) The applicant shall join investigation as and when called for and shall return all the dowry articles.
 - d) The applicant is directed to give all his mobile numbers to the Investigating Officer and keep them operational at all times.
 - e) The applicant shall give his address to the IO and if he changes the address he shall intimate the same to the IO.
 - f) The applicant shall not, directly or indirectly, contact or pressurize, complainant or any other witness. In case any complaint is received from the complainant that the applicant is trying to contact him / her and trying to put pressure on him/her then the protection granted by this Court shall stand cancelled.
8. Needless to say, the abovementioned observations are predicated solely on the facts as alleged, and brought forth at this juncture, and are not findings on merits, and would also have no bearing on the merits of the case. With these conditions, and observations, the anticipatory bail application stands disposed off.
9. Copy of the order be uploaded on the website of the District Court.

(Arul Varma)
ASJ/Special Judge, Electricity
Court No. 02, Central
Tis Hazari/Delhi/04.08.2021