

State Vs. Santosh Gupta

FIR No: 160/13

Under Section: 365/302/120B IPC

PS: NDRS

25.07.2020

Through video conferencing

This is an application for change of surety.

**Present: Sh. Alok Saxena, Ld. APP for the State.
Sh. Vikas Jain, Ld. Counsel for applicant.**

Compliance report has been received from concerned SHO. As per same, FIR No. 230/20 dated 23.07.2020 U/s 193/200/209 IPC has been registered at PS Subzi Mandi against surety Ram Kishore.

Ld. Counsel seeks some time to furnish fresh surety bond.

At request, put up for furnishing of fresh surety bond on
06.08.2020.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
25.07.2020

State Vs. Mukesh

FIR No: 212/20

Under Section: 336/120B/34 IPC and 25/27 Arms Act

PS: Wazirabad

25.07.2020

Through video conferencing

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

Present : Sh. Alok Saxena, Ld. APP for the State.
Sh. A.K. Sharma, Ld. Counsel for the applicant.
IO/SI Rohit through VC.

The case of the prosecution in nutshell is that accused along with other co-accused fired shot on the house of complainant on 23.05.2020 and thereafter on 01.06.2020, another firing incident occurred at the house of complainant wherein victim Rakesh lost his life. A separate case U/s 302/120B/34 IPC has already been registered with respect to second incident. The instant FIR is with respect to incident dated 23.05.2020.

Ld. Counsel for accused has pressed for bail on the ground that accused has been falsely implicated in the present case and there is no admissible evidence against accused at this stage.

I have heard contentions of defence and perused the record carefully.

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During course of arguments, I have asked IO to clarify about the evidence which has been collected against applicant/accused. On specific query, IO submits that neither any eye-witness has come on record who has seen accused committing the alleged offences nor any other evidence viz. CCTV footage/call detail records are there till yet which establishes presence of accused at the spot.

At this stage, Ld. APP for State fairly submits that apart from disclosure statement of applicant/accused and other co-accused, there is no admissible evidence against accused. It is, however, submitted that further investigation is still pending.

Therefore, in the facts and circumstances of the case and considering the submission of Ld. APP as well as IO, I am of the view that accused deserves to be granted bail in the instant case. Accused Mukesh is accordingly admitted to bail on furnishing Personal Bond and Surety Bond in the sum of Rs. 20,000/- each to the satisfaction of Ld. MM/Ld. Duty MM.

With these observation, the application stands disposed of.

Copy of the order be sent to concerned Ld. Magistrate, Ld. Defence Counsel, concerned SHO/IO as well as Jail Superintendent for information through official email.

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(Anuj Agrawal)
ASJ-03, Central District
Tis Hazari Courts, Delhi
25.07.2020

State Vs. Satbir Singh

FIR No: 135/20

Under Section: 33/58 Delhi Excise Act

PS: Subzi Mandi

25.07.2020

Through video conferencing

This is fresh application for grant of anticipatory bail filed on behalf of the applicant Satbir Singh.

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

Reply filed by IO. Copy supplied to Ld. Defence Counsel electronically.

The case of prosecution in nutshell is that on 24.04.2020, accused along with other two co-accused were transporting liquor without any valid license in a vehicle bearing registration no. HR24AA0005 and on being apprehended by police team, accused/applicant Satbir Singh fled away from the spot along with keys of the said vehicle. Co-accused persons were arrested at the spot by the police team. From the said vehicle, two cartoons having 48 quarters of liquor each, three cartoons having 12 bottles of liquor each and a plastic katta having 12 bottles of liquor were recovered.

Ld. Counsel for accused is seeking anticipatory bail on the ground that accused is a poor innocent person, and is running a *dhaba* at Sonapat,

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Haryana. It is further argued that police officials are regularly visiting his house and harassing the family members of the accused. It is argued that accused was not present at the spot and is being falsely implicated in the instant case. It is further argued that the co-accused Naveen and Sanjay have already been granted bail and, therefore, accused also deserves to be granted bail on the ground of parity in the facts and circumstances of the present case.

Per contra, Ld. APP for State has vehemently opposed the application for anticipatory bail on the ground that the allegations against the accused are grave and serious. It is argued that accused has been evading his arrest since long and his custodial interrogation is required for effective investigation. It is further argued that the accused has previous involvements in heinous cases also, therefore, in the facts and circumstances of the case, the instant application for anticipatory bail deserves to be dismissed.

Ld. Defence Counsel has refuted the contentions of Ld. APP about previous involvement by arguing that all the said cases have already been disposed of.

I have heard rival contentions and perused the record.

In **State (CBI) Vs. Anil Sharma, 1997 CrL LJ 4414**, Hon'ble Apex Court has observed as under:

“Success in such interrogation would allude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual.”

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Hon'ble High of Delhi in the case of **Homi Rajvansh Vs. Central Bureau of Investigation, 185 (2011) DLT 774** has held as follows:

“There is a perceptible difference in the results of the interrogation when a person who has an order of anticipatory bail in his pocket and goes to the investigation agency. He is bound not to cooperate and not to give the correct answer to the questions put to him to reach at the bottom of the case as against the person who is in custody or who does not have the protection of the anticipatory bail.”

In the present case, custodial interrogation is necessary to ascertain the supply chain of the liquor. The interrogation would be divested of effectiveness if it is carried out after the applicant is immunized from arrest. The accused cannot claim any parity with co-accused as they were granted regular bail after their arrest. Even otherwise, the role of applicant/accused is distinguishable from co-accused as the applicant/accused is the registered owner of the vehicle (as reported by IO) wherein the liquor was being transported and the former was also driving the same at the time of their apprehension. The accused had fled away from the spot on being stopped by investigating agency whereas other accused did not.

Therefore, in the facts and circumstances of the present case and since custodial interrogation of accused/applicant would be required for ascertaining the source of liquor, **I am not inclined to grant anticipatory bail to accused. Accordingly, the present application seeking grant of anticipatory bail stands dismissed.**

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Copy of this order be sent to concerned Ld. Magistrate, Ld. Defence Counsel as well as concerned SHO/IO for information.

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(Anuj Agrawal)

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Tis Hazari Courts, Delhi
25.07.2020