

: 1 :

BAIL APPLICATION

State V. Mohit
FIR No. : 19/2019
PS.: Timarpur
U.S: 323,341,308,34 IPC

13.07.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State
through VC.
Sh. Alamine, Ld. counsel for accused/applicant
through VC.

Part submissions heard.

Let IO/learned counsel for accused to file further
report regarding current status of the accused whether he has
recovered from the Corona positive infection or not.

IO to file report by next date of hearing.

Put up on 17.07.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
13.07.2020

BAIL APPLICATION

State V. Raghav Jha
FIR No. :339/2016
PS.: Daryaganj
U.S: 392,397,34 IPC

13.07.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Sh. Pankaj Srivastava, Ld. counsel for accused/ applicant through VC.

Reply filed by IO.

Arguments heard.

It is submitted that present matter falls under the relaxed of Hon'ble High Court dated 07.04.2020. He wants to submit certain documents.

Put up for filing of documents and further arguments on 15.07.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
13.07.2020

: 1 :

BAIL APPLICATION

State V. Rahul Gupta
FIR No. :210/2018
PS.: Prasad Nagar
U.S: 302,34 IPC

13.07.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State
through VC.
Sh. Pankaj Srivastava, Ld. counsel for accused/
applicant through VC.

Reply filed on behalf of IO as well as from Jail
Superintendent concerned. Copy of the same be supplied to
learned counsel for accused/applicant.

Put up for further arguments on 15.07.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
13.07.2020

: 1 :

BAIL APPLICATION

State V. Raj Bahadur (Applicant is Sanjay @ Dharam Vir)

FIR No. :130/2014

PS.: Kamla Market

U.S.:419,420,365,392,395,412,120B,34

13.07.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State
through VC.
Sh. Rajan Bhatia, Ld. counsel for accused/
applicant Sanajy @ Dharamvir through VC.

Fresh application for extension of interim bail is
moved.

**Put up for reply, arguments and appropriate
orders with filed on 16.07.2020.**

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
13.07.2020

**Crl. Revision: 554/2019
State v. Sunil Kumar etc.**

13.07.2020

File taken up today in terms of order No. Endst. No. 1734-66/DHC/2020 dated 27.06.2020 r/w other earlier order passed in this regard as mentioned in this order itself.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State/
Revisionist.
Sh. Pravesh Tyagi, learned counsel for both the
respondents through electronic mode(mobile no.
9910600601).

This court is also discharging emergency Roster bail duty since 20.05.2020 and on an average hearing 15-20 matters through VC.

This case is pending at the stage of final arguments. As such, same is proposed to be taken up today for hearing.

As per the report of Reader of this court, when contacted to counsel for both the respondents on mobile phone, he submitted that he does not have case file with him as of now and requested for a shorter date.

As such, matter could not be proceeded further on merits.

Parties are directed to download Webex and get familiar with the same by NDOH so that hearing can be held through Webex/electronic mode.

Put up for purpose fixed/arguments on 11.09.2020.


**(Naveen Kumar Kashyap)
ASJ-04/Central/13.07.2020**

Criminal Appeal: 382/2019
Shashikant Sharma v. Kulbir Singh

13.07.2020

File taken up today in terms of order No. Endst. No. 1734-66/DHC/2020 dated 27.06.2020 r/w other earlier order passed in this regard as mentioned in this order itself.

Present: Sh. Sanjeev Kumar, learned counsel for Appellant through electronic mode(mobile no. 9810437609).
Sh. Gurdeep Singh Bhatia, learned counsel for Respondent(Mobile no. 9911292076).

This court is also discharging emergency Roster bail duty since 20.05.2020 and on an average hearing 15-20 matters through VC.

This case is pending at the stage of final arguments. As such, same is proposed to be taken up today for hearing.

As per the report of Reader of this court, when contacted to counsel for Appellant, he submitted that firstly, he has no instructions from Appellant, secondly, he is out of station and he does not have his file with him. Further, counsel for Respondent, when contacted by Reader on mobile phone, submitted that he is busy in Patiala House court in another matter and requested for next date of hearing preferably on any Monday, Wednesday and Friday.

As such, matter could not be proceeded further on merits.

Parties are directed to download Webex and get familiar with the same by NDOH so that hearing can be held through Webex/electronic mode.

Put up for purpose fixed/arguments on 11.09.2020.


(Naveen Kumar Kashyap)
ASJ-04/Central/13.07.2020

Crl. Revision: 11/2020
Deepak Talwar v. Income Tax Office

13.07.2020

File taken up today in terms of order No. Endst. No. 1734-66/DHC/2020 dated 27.06.2020 r/w other earlier order passed in this regard as mentioned in this order itself.

Present: Sh. Prabhav Ralli, learned counsel for Revisionist through electronic mode(mobile no. 9999249666)
Sh. Manmeet Singh Arora, learned counsel for Respondent(Mobile no. 9811182601).

This court is also discharging emergency Roster bail duty since 20.05.2020 and on an average hearing 15-20 matters through VC.

This case is pending at the stage of final arguments. As such, same is proposed to be taken up today for hearing.

As per the report of Reader of this court, when contacted to counsels for both parties on mobile phone, they submitted that they do not have their files with them as of now.

As such, matter could not be proceeded further on merits.

Parties are directed to download Webex and get familiar with the same by NDOH so that hearing can be held through Webex/electronic mode.

Put up for purpose fixed/arguments on 11.09.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/13.07.2020



Crl. Revision: 12/2020
Deepak Talwar v. Income Tax Office

13.07.2020

File taken up today in terms of order No. Endst. No. 1734-66/DHC/2020 dated 27.06.2020 r/w other earlier order passed in this regard as mentioned in this order itself.

Present: Sh. Prabhav Ralli, learned counsel for Revisionist through electronic mode(mobile no. 9999249666)
Sh. Manmeet Singh Arora, learned counsel for Respondent(Mobile no. 9811182601).

This court is also discharging emergency Roster bail duty since 20.05.2020 and on an average hearing 15-20 matters through VC.

This case is pending at the stage of final arguments. As such, same is proposed to be taken up today for hearing.

As per the report of Reader of this court, when contacted to counsels for both parties on mobile phone, they submitted that they do not have their files with them as of now.

As such, matter could not be proceeded further on merits.

Parties are directed to download Webex and get familiar with the same by NDOH so that hearing can be held through Webex/electronic mode.

Put up for purpose fixed/arguments on 11.09.2020.


(Naveen Kumar Kashyap)
ASJ-04/Central/13.07.2020

Crl. Revision: 13/2020
Deepak Talwar v. Income Tax Office

13.07.2020

File taken up today in terms of order No. Endst. No. 1734-66/DHC/2020 dated 27.06.2020 r/w other earlier order passed in this regard as mentioned in this order itself.

Present: Sh. Prabhav Ralli, learned counsel for Revisionist through electronic mode(mobile no. 9999249666)
Sh. Manmeet Singh Arora, learned counsel for Respondent(Mobile no. 9811182601).

This court is also discharging emergency Roster bail duty since 20.05.2020 and on an average hearing 15-20 matters through VC.

This case is pending at the stage of final arguments. As such, same is proposed to be taken up today for hearing.

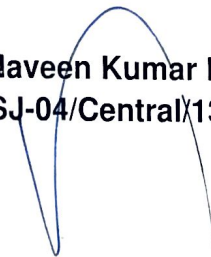
As per the report of Reader of this court, when contacted to counsels for both parties on mobile phone, they submitted that they do not have their files with them as of now.

As such, matter could not be proceeded further on merits.

Parties are directed to download Webex and get familiar with the same by NDOH so that hearing can be held through Webex/electronic mode.

Put up for purpose fixed/arguments on 11.09.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/13.07.2020



Crl. Revision: 14/2020
Deepak Talwar v. Income Tax Office

13.07.2020

File taken up today in terms of order No. Endst. No. 1734-66/DHC/2020 dated 27.06.2020 r/w other earlier order passed in this regard as mentioned in this order itself.

Present: Sh. Prabhav Ralli, learned counsel for Revisionist through electronic mode(mobile no. 9999249666)
Sh. Manmeet Singh Arora, learned counsel for Respondent(Mobile no. 9811182601).

This court is also discharging emergency Roster bail duty since 20.05.2020 and on an average hearing 15-20 matters through VC.

This case is pending at the stage of final arguments. As such, same is proposed to be taken up today for hearing.

As per the report of Reader of this court, when contacted to counsels for both parties on mobile phone, they submitted that they do not have their files with them as of now.

As such, matter could not be proceeded further on merits.

Parties are directed to download Webex and get familiar with the same by NDOH so that hearing can be held through Webex/electronic mode.

Put up for purpose fixed/arguments on 11.09.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/13.07.2020



Crl. Revision: 15/2020
Deepak Talwar v. Income Tax Office

13.07.2020

File taken up today in terms of order No. Endst. No. 1734-66/DHC/2020 dated 27.06.2020 r/w other earlier order passed in this regard as mentioned in this order itself.

Present: Sh. Prabhav Ralli, learned counsel for Revisionist through electronic mode(mobile no. 9999249666)
Sh. Manmeet Singh Arora, learned counsel for Respondent(Mobile no. 9811182601).

This court is also discharging emergency Roster bail duty since 20.05.2020 and on an average hearing 15-20 matters through VC.

This case is pending at the stage of final arguments. As such, same is proposed to be taken up today for hearing.

As per the report of Reader of this court, when contacted to counsels for both parties on mobile phone, they submitted that they do not have their files with them as of now.

As such, matter could not be proceeded further on merits.

Parties are directed to download Webex and get familiar with the same by NDOH so that hearing can be held through Webex/electronic mode.

Put up for purpose fixed/arguments on 11.09.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/13.07.2020



Crl. Revision: 16/2020
Deepak Talwar v. Income Tax Office

13.07.2020

File taken up today in terms of order No. Endst. No. 1734-66/DHC/2020 dated 27.06.2020 r/w other earlier order passed in this regard as mentioned in this order itself.

Present: Sh. Prabhav Ralli, learned counsel for Revisionist through electronic mode(mobile no. 9999249666)
Sh. Manmeet Singh Arora, learned counsel for Respondent(Mobile no. 9811182601).

This court is also discharging emergency Roster bail duty since 20.05.2020 and on an average hearing 15-20 matters through VC.

This case is pending at the stage of final arguments. As such, same is proposed to be taken up today for hearing.

As per the report of Reader of this court, when contacted to counsels for both parties on mobile phone, they submitted that they do not have their files with them as of now.

As such, matter could not be proceeded further on merits.

Parties are directed to download Webex and get familiar with the same by NDOH so that hearing can be held through Webex/electronic mode.

Put up for purpose fixed/arguments on 11.09.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/13.07.2020



SC No.: 27546/2016
FIR no.: 160/2011
PS: Lahori gate
State v. Sunil Kumar

13.07.2020

File taken up today in terms of order No. Endst. No. 1734-66/DHC/2020 dated 27.06.2020 r/w other earlier order passed in this regard as mentioned in this order itself.

Present: Sh. Pawan Kumar, Ld. Addl PP for the state through VC.
None for the accused persons.

This court is also discharging emergency Roster bail duty since 20.05.2020 and on an average hearing 15-20 matters through VC.

This case is pending at the stage of final arguments. As such, same is proposed to be taken up today for hearing.

As per the report of Ahlmad, vakalatnama of counsel for accused persons is on file but same does not bear any mobile number and e-mail address, hence counsel for accused persons could not be contacted.

As such, matter could not be proceeded further on merits.

Counsel for accused persons is directed to download Webex and get familiar with the same by NDOH so that hearing can be held through Webex/electronic mode.

Put up for purpose fixed/arguments on 11.09.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/13.07.2020

: 1 :

Bail Application

State Vs. Gaurav @ Vinay s/o Mr. Shiv Dutt
FIR No. : 172/2020
PS: DBG Road
U/S: 308, 34 IPC

13.07.2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State
through VC
Mr. Manu Sishodia, learned Counsel from for
Accused through VC.

Vide this order, the regular bail application under section 439 Cr.P.C. on behalf of accused filed through counsel is disposed of.

I have heard both the sides and have gone through the record.

The personal liberty is a priceless treasure for a human being. It is founded on the bed rock of constitutional right and accentuated further on human rights principle. The sanctity of liberty is the fulcrum of any civilized society. Deprivation of liberty of a person has enormous impact on his mind as well as body. Further article 21 Of the Constitution mandates that no person shall be deprived of his life or personal liberty except according to procedure established by law. Further India is a signatory to the International Covenant On Civil And Political Rights, 1966 and, therefore, Article 21 of the Constitution has to be understood in the light of the International Covenant On Civil And Political Rights, 1966. *Further* Presumption of innocence is a human right. Article 21 in view of its expansive meaning not only protects life and liberty ,but also envisages a fair procedure. Liberty of a person should not ordinarily be interfered with unless there exist cogent grounds therefor. The fundamental principle of our system of justice is that a person should not be deprived of his liberty except for a distinct breach of law. If there is no substantial risk of the accused

State Vs. Gaurav @ Vinay s/o Mr. Shiv Dutt
FIR No. : 172/2020
PS: DBG Road
U/S: 308, 34 IPC

fleeing the course of justice, there is no reason why he should be imprisoned during the period of his trial. The basic rule is to release him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after convictions, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earlier times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial ,but in such case 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the constitution that any persons should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty under Article 21 of the Constitution upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as mark of disapproval of former conduct whether the accused has

been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439 CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

But, 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 societal order. A society expects responsibility and accountability from the member, and it desires that the citizens should obey the law, respecting it as a cherished social norm. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly thing which the society disapproves, the legal consequences are bound to follow.

Further discretionary jurisdiction of courts u/s 437 and 439 CrPC should be exercised carefully and cautiously by balancing the rights of the accused and interests of the society. Court must indicate brief reasons for granting or refusing bail. Bail order passed by the court must be reasoned one but detailed reasons touching merits of the case, detailed examination of evidence and elaborate documentation of merits of case should not be done.

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of

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the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745**).

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for grant or refusal of bail to an accused in a non-bailable offence like, (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) Nature of accusation and evidence therefor, (iii) Gravity of the offence and punishment which the conviction will entail, (iv) Reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, (v) Character and behavior of the accused, (vi) Means, position and standing of the accused in the Society, (vii) Likelihood of the offence being repeated, (viii) Reasonable apprehension of the witnesses being tampered with, (ix) Danger, of course, of justice being thwarted by grant of bail, (x) Balance between the rights of the accused and the larger interest of the Society/State, (xi) Any other factor relevant and peculiar to the accused. (xii) While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. Furthermore, in the landmark judgment of

Gurucharan Singh and others v. State (AIR 1978 SC 179), it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

Further it may also be noted that it is also settled law that while disposing of bail applications u/s 437/439 Cr.P.C., courts should assign reasons while allowing or refusing an application for bail. But detailed reasons touching the merit of the matter should not be given which may prejudice the accused. What is necessary is that the order should not suffer from non-application of mind. At this stage a detailed examination of evidence and elaborate documentation of the merit of the case is not required to be undertaken. Though the court can make some reference to materials but it cannot make a detailed and in-depth analysis of the materials and record findings on their acceptability or otherwise which is essentially a matter of trial. Court is not required to undertake meticulous examination of evidence while granting or refusing bail u/s 439 of the CrPC.

In the present case, it is submitted on behalf of the accused that complainant and accused side are family member infact complainant is Mausī (sister of the mother of accused); that after a function in the family while drinking liquor some altercation took place between the accused and his brother on one side and complainant on

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the other side, as per the prosecution story Ronak hit the complainant's son with beer bottle on his head. As such, accused was arrested alongwith his brother on 29/06/2020. It is stated that he is no more required for investigation; that victim is already discharged from the hospital; that no parties want to amicably settle the matter; there is no likelihood of tampering the evidence or influencing prosecution witness. As such, it is prayed that he be granted regular bail.

On the other hand, it is stated in the reply filed by SI Priyank Rana dated 13/07/2020, as also argued by the learned Addl.PP for the state, that there are serious and specific allegations against the present accused; that present accused played an active role in the crime; that complainant and accused are both living in same house as such, there is every possibility that he can pressurize the witness and threaten the witness if granted bail. As such, present application is opposed.

I have heard both the sides and gone through the record. It is rightly pointed out by the learned Addl. PP for the State that offence is serious in nature. Further, investigation still on and at initial stage. Further, injury is serious in nature. Further, there is likelihood that accused may pressurize the complainant and his family member if enlarged on bail. As such, this court is not inclined to grant regular bail to accused at this stage.

With these observations present bail application is disposed of as dismissed. Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Copy of order be uploaded on the website. Further a copy of this order be sent to SHO / IO concerned.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC/Delhi
13/07/2020

State Vs. Gaurav @ Vinay s/o Mr. Shiv Dutt
FIR No. : 172/2020
PS: DBG Road
U/S: 308, 34 IPC

INTERIM BAIL APPLICATION

State Vs. Sikander s/o Mr. Mathura Ram

FIR No. : 144/2019

PS: Jama Masjid

U/S: 364A, 392, 34 IPC

13.07.2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State
through VC
Mr. Anand Parasar, Ld. Counsel from for
Accused through VC.

1. *Observations given by Hon'ble High Court of Delhi in W.P.(C) No. 2945/2020 dated 23.03.2020 in case titled as "Shobha Gupta and Ors. v. Union of India & Ors.", Hon'ble Supreme Court of India in Suo Moto W.P.(C) No. 1/2020 dated 23.03.2020 and Revised Advisory Protocol dated 30.03.2020 have been issued by Ld. District & Sessions Judge (HQ) read with other directions received from time to time including on 28.03.2020, 07.04.2020, 18.04.2020, 05.05.2020, 18.05.2020 and 20.06.2020 from Hon'ble High Court as a result of various meetings of Delhi State Legal Services Authority, present application is taken up.*
2. Reply already filed by IO .
3. Arguments heard.
4. In nutshell, it is stated and argued on behalf of accused that accused is in JC since 29/07/2019; that investigation is already complete and chargesheet is already filed; that matter is pending for committal before learned MM; no purpose would be served to keep the accused in JC; there is

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spread of corona virus; that his regular bail is pending before Hon'ble High Court; that his interim bail application is already rejected by Learned MM vide order dated 09/07/2020; As such, it is prayed that he be granted interim bail till disposal of his regular bail application before Hon'ble High Court.

5. On the other hand, a detailed reply dated 12/07/2020 filed by the IO. It is further argued by learned Addl. PP for the state that present offence is very serious in nature and offences charged against the accused are punishable upto imprisonment for life. As such, present bail application is strongly opposed.

6. For the present type of offences, a relaxed criteria for interim bail is recommended by Hon'ble High Court dated 18/04/2020, but it was inter-alia subject to that accused is suffering from HIV, cancer, chronic kidney dysfunction (requiring dialysis), Hepatitis B or C, Ashtma and T.B.

It is not the case of the accused that he is suffering from any of such disease. As such, the case of the present accused does not fall under the relaxed criteria given by the Hon'ble High Court.

7. Even otherwise on merit, apart from general apprehension i.e. there is spread of corona virus and he is in JC for long, no other ground is raised.

This court do not find the ground on merit stated by the accused sufficient to admit him to interim bail. Further, it is not the case that he is or anybody in his barrack is suffering from corona virus. Further, offence is very serious in nature. As such, this court is not inclined to grant interim bail to the present

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accused. With these observations, present interim bail application is dismissed.

8. ***With these observations present bail application is disposed of as dismissed. Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Copy of this order be sent to SHO / IO concerned. Copy of order be uploaded on the website.***

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
13.07.2020.

BAIL APPLICATION

**FIR No. :Not Known
PS: Not Known
STATE v. Sonu s/o Mr. Bhagwan Dass
U/S: Not known**

13.07.2020.

Present: Sh. Pawan Kumar, Addl. PP for the State through VC.
Mr. S.P. Sharma, learned counsel for the accused through VC.

Reply filed by the IO dated 08/07/2020. Copy of the same be supplied to the learned counsel for the accused through prosecution through electronic mode on the e-mail ID i.e. SPS03068@gmail.com .

Put up for arguments, appropriate order for

21/07/2020.

**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
13.07.2020**

BAIL APPLICATION

FIR No. :70/2020

PS: Nabi Karim

STATE v. Sunil Chikara s/o Mr. Gian Chand

U/S: 376, 342, 323, 506 IPC

13.07.2020.

Present: Sh. Pawan Kumar, Addl. PP for the State through VC.
Mr. Ravin Rao, learned counsel for the applicant / accused through VC.

Complainant is stated to be in person but she is advised to appear through VC with the assistance of the IO or at the facility available at the facility centre / advocate bar room.

Medical report is received from the concerned Jail Superintendent in which Medical Incharge has prayed for 2-3 working days time to file Medical status report of UTP Sunil Chikara.

As such, in the interest of justice, one more opportunity is granted to concerned Jail Superintendent to give medical report including regarding whether such UTP is corona positive or not.

Put up for **17/07/2020**.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
13.07.2020

: 1 :

BAIL APPLICATION

State V. Karan @ Twinkle @ Hukum Singh

FIR No. : 31/2017

PS.: DCRS

U.S: 302,201,34 IPC

13.07.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Sh. J.S. Mishra, Ld. counsel for accused/applicant through VC.

Medical documents supplied already to the IO but report not filed by IO.

As such, issue show cause notice to IO as to why such report is not filed. Such show cause notice be issued through ACP concerned.

Put up for reply/arguments on 17.07.2020.

(Naveen Kumar Kashyap)

ASJ-04/Central/THC

13.07.2020

BAIL APPLICATION

FIR No. : 359/2014

PS: Pahar Ganj

STATE v. Murgan @ Anna s/o Mr. Ganesh

U/S: 307, 387, 120B IPC, & 25, 27, 54, 59 Arms Act

13.07.2020.

Present: Sh. Pawan Kumar, Addl. PP for the State through VC.
Mr. Ramesh punia, learned counsel for accused through VC.

Reply filed by the Jail Superintendent concerned.

But reply not filed by the IO.

As such, issue fresh notice to IO through SHO concerned. Reply be filed in terms of order dated 07/07/2020. Copy of such order dated 07/07/2020 be also sent for his read reference.

Put up for reply, arguments and appropriate order for **16/07/2020**.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
13.07.2020

BAIL APPLICATION

**FIR No. : 117/2017
PS: Darya Ganj
State v. Lootan Yadav @ Raju
U/S: 302/34 IPC**

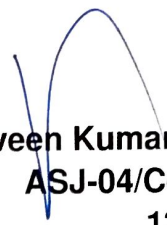
13.07.2020.

Present: Sh. Pawan Kumar, Addl. PP for the State through VC.
Mr. Praveen Kumar, learned counsel for the accused through VC.

It is reported that the present bail is pending trial before the court of Mr. Anuj Aggarwal, learned ASJ-03 Central District. Further it appears that earlier order was passed in this court in the capacity of bail duty Judge.

As such, the same be put up before the concerned court of Mr. Anuj Aggarwal, learned ASJ-03 Central District through Learned District & Sessions Judge(HQs) for **14/07/2020**.

Ahlmad is directed to do the needful accordingly.


(Naveen Kumar Kashyap)
ASJ-04/Central/THC
13.07.2020

Criminal Appeal: 51/2019
R.K. Nigam v.State and Anr.

13.07.2020

File taken up today in terms of order No. Endst. No. 1734-66/DHC/2020 dated 27.06.2020 r/w other earlier order passed in this regard as mentioned in this order itself.

Present: Ms. Suman Sharma, Ld. Counsel for Appellant
(Mobile no. 8700593700).
Sh. Pawan Kumar, Ld. Addl PP for the state/
Respondent no.1 through VC.
Sh. Jagmohan Singh, Ld. Counsel for Respondent
no.2 (Mobile no.9811264286).

This court is also discharging emergency Roster bail duty since 20.05.2020 and on an average hearing 15-20 matters through VC.

This case is pending at the stage of final arguments. As such, same is proposed to be taken up today for hearing.

As per the report of Reader, when contacted to counsels for both the parties, they submitted that Appellant R.K. Nigam has already expired and requested for next date of hearing.

As such, matter could not be proceeded further on merits.

Counsel for accused persons is directed to download Webex and get familiar with the same by NDOH so that hearing can be held through Webex/electronic mode.

Put up for further proceedings on 11.09.2020.


(Naveen Kumar Kashyap)
ASJ-04/Central/13.07.2020

BAIL APPLICATION

State V. Vaishali
FIR No. : 129/2020
PS.: DB G Road
U.S: 379, 356,341 IPC

13.07.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State
through VC.
Sh. Sunil Kumar, LAC for accused/applicant
through VC.

Arguments heard.

Put up for clarifications/appropriate order including
regarding criteria dated 28.03.2020 given by Hon'ble High Power
Committee on 17.07.2020.

Further, it appears that reply is not filed from
concerned PS i.e. DBG road in FIR no. 129/2020. As such reply
be called from IO/SHO from such PS for such FIR.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
13.07.2020

Bail Application

State Vs. Raunak @ Tilak s/o Mr. Shiv Dutt
FIR No. : 172/2020
PS: DBG Road
U/S: 308, 34 IPC

13.07.2020

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State
through VC
Mr. Manu Sishodia, learned Counsel from for
Accused through VC.

Vide this order, the regular bail application under section 439 Cr.P.C. on behalf of accused filed through counsel is disposed of.

I have heard both the sides and have gone through the record.

The personal liberty is a priceless treasure for a human being. It is founded on the bed rock of constitutional right and accentuated further on human rights principle. The sanctity of liberty is the fulcrum of any civilized society. Deprivation of liberty of a person has enormous impact on his mind as well as body. Further article 21 Of the Constitution mandates that no person shall be deprived of his life or personal liberty except according to procedure established by law. Further India is a signatory to the International Covenant On Civil And Political Rights, 1966 and, therefore, Article 21 of the Constitution has to be understood in the light of the International Covenant On Civil And Political Rights, 1966. *Further* Presumption of innocence is a human right. Article 21 in view of its expansive meaning not only protects life and liberty ,but also envisages a fair procedure. Liberty of a person should not ordinarily be interfered with unless there exist cogent grounds therefor. The fundamental principle of our system of justice is that a person should not be deprived of his liberty except for a distinct breach of law. If there is no substantial risk of the

State Vs. Raunak @ Tilak s/o Mr. Shiv Dutt
FIR No. : 172/2020
PS: DBG Road
U/S: 308, 34 IPC

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accused fleeing the course of justice, there is no reason why he should be imprisoned during the period of his trial. The basic rule is to release him on bail unless there are circumstances suggesting the possibility of his fleeing from justice or thwarting the course of justice. When bail is refused, it is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution.

Further it has been laid down from the earliest time that the object of Bail is to secure the appearance of the accused person at his trial by reasonable amount of Bail. The object of Bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after convictions, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earlier times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial, but in such case 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the constitution that any persons should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty under Article 21 of the Constitution upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste

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of imprisonment as a lesson. While considering an application for bail either under Section 437 or 439 CrPC, the court should keep in view the principle that grant of bail is the rule and committal to jail an exception. Refusal of bail is a restriction on personal liberty of the individual guaranteed by Article 21 of the Constitution. Seriousness of the offence not to be treated as the only consideration in refusing bail : Seriousness of the offence should not to be treated as the only ground for refusal of bail. (Judgment of **Sanjay Chandra Vs. Central Bureau of Investigation, AIR 2012 SC 830** relied).

But, 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 societal order. A society expects responsibility and accountability from the member, and it desires that the citizens should obey the law, respecting it as a cherished social norm. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly thing which the society disapproves, the legal consequences are bound to follow.

Further discretionary jurisdiction of courts u/s 437 and 439 CrPC should be exercised carefully and cautiously by balancing the rights of the accused and interests of the society. Court must indicate brief reasons for granting or refusing bail. Bail order passed by the court must be reasoned one but detailed reasons touching merits of the case, detailed examination of evidence and elaborate documentation of merits of case should not be done.

At this stage , it can also be fruitful to note that requirements for bail u/s 437 & 439 are different. Section 437 Cr.P.C. severally curtails the power of the Magistrate to grant bail in context of the commission of non-bailable offences punishable with death or imprisonment for life, the two higher Courts have only the procedural requirement of giving notice of

the Bail application to the Public Prosecutor, which requirement is also ignorable if circumstances so demand. The regimes regulating the powers of the Magistrate on the one hand and the two superior Courts are decidedly and intentionally not identical, but vitally and drastically dissimilar. (**Sundeep Kumar Bafna Vs. State of Maharashtra, AIR 2014 SC 1745**).

Further at this stage it can be noted that interpreting the provisions of bail contained u/s 437 & 439 Cr.P.C., the Hon'ble Supreme Court in its various judgments has laid down various considerations for grant or refusal of bail to an accused in a non-bailable offence like, (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) Nature of accusation and evidence therefor, (iii) Gravity of the offence and punishment which the conviction will entail, (iv) Reasonable possibility of securing presence of the accused at trial and danger of his absconding or fleeing if released on bail, (v) Character and behavior of the accused, (vi) Means, position and standing of the accused in the Society, (vii) Likelihood of the offence being repeated, (viii) Reasonable apprehension of the witnesses being tampered with, (ix) Danger, of course, of justice being thwarted by grant of bail, (x) Balance between the rights of the accused and the larger interest of the Society/State, (xi) Any other factor relevant and peculiar to the accused. (xii) While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, but if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. Furthermore, in the landmark judgment of **Gurucharan Singh and others v. State** (AIR 1978 SC 179), it was held that there is no hard and fast rule and no inflexible principle governing the exercise of such discretion by the courts. It was further held that there cannot be any

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inexorable formula in the matter of granting bail. It was further held that facts and circumstances of each case will govern the exercise of judicial discretion in granting or refusing bail. It was further held that such question depends upon a variety of circumstances, cumulative effect of which must enter into the judicial verdict. Such judgment itself mentioned the nature and seriousness of nature, and circumstances in which offences are committed apart from character of evidence as some of the relevant factors in deciding whether to grant bail or not.

Further it may also be noted that it is also settled law that while disposing of bail applications u/s 437/439 Cr.P.C., courts should assign reasons while allowing or refusing an application for bail. But detailed reasons touching the merit of the matter should not be given which may prejudice the accused. What is necessary is that the order should not suffer from non-application of mind. At this stage a detailed examination of evidence and elaborate documentation of the merit of the case is not required to be undertaken. Though the court can make some reference to materials but it cannot make a detailed and in-depth analysis of the materials and record findings on their acceptability or otherwise which is essentially a matter of trial. Court is not required to undertake meticulous examination of evidence while granting or refusing bail u/s 439 of the CrPC.

In the present case, it is submitted on behalf of the accused that complainant and accused side are family member infact complainant is Mausai (sister of the mother of accused); that after a function in the family while drinking liquor some altercation took place between the accused and his brother on one side and complainant on the other side, as per the prosecution story, Ronak hit the complainant's son with beer bottle on his head. As such, accused was arrested alongwith his brother on 29/06/2020. It is stated that he is no more required for investigation; that victim is already discharged from the hospital; that no parties want to amicably

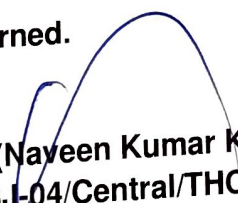
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settle the matter; there is no likelihood of tampering the evidence or influencing prosecution witness. As such, it is prayed that he be granted regular bail.

On the other hand, it is stated in the reply filed by SI Priyank Rana dated 13/07/2020, as also argued by the learned Addl.PP for the state, that there are serious and specific allegations against the present accused; that present accused played an active role in the crime; that complainant and accused are both living in same house as such, there is every possibility that he can pressurize the witness and threaten the witness if granted bail. That such accused is previously involved in three other criminal cases including one u/s 324/341 IPC and another u/s 323/506/341 IPC. As such, present application is opposed.

I have heard both the sides and gone through the record. It is rightly pointed out by the learned Addl. PP for the State that offence is serious in nature. Further, investigation still on and at initial stage. Further, injury is serious in nature. Further, there is likelihood that accused may pressurize the complainant and his family member if enlarged on bail. As such, this court is not inclined to grant regular bail to accused at this stage.

With these observations present bail application is disposed of as dismissed. Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Copy of order be uploaded on the website. Further a copy of this order be sent to SHO / IO concerned.


(Naveen Kumar Kashyap)
ASJ-04/Central/THC/Delhi
13/07/2020

EXTENSION OF INTERIM BAIL APPLICATION

State Vs Jawed @ Raja s/o Late Alauddin

FIR No.: 182/2017

PS.: Kamla Market

U.S: 395, 397, 120B, 412, 34 IPC & 25, 27 Indian Arms Act

13.07.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Mr. M. Z Masih, learned counsel for accused through VC / electronic mode.

1. Vide this order, application filed by accused through counsel for extension of interim bail is disposed of.

2. In nutshell, it is submitted on behalf of the accused that he is covered by the judgment of Hon'ble High Court of Delhi in Shobha Gupta vs Union of India, WP(C) No. 2945/2020 dated 23/03/2020 read with judgment passed by the Hon'ble Supreme Court in Suo Moto writ petition (C) 1/2020. It is further submitted that due to outbreak of corona virus in order to decongest the jail, certain directions are passed by the Hon'ble High Court and case of the accused is covered by the same. Even otherwise, it is submitted that such corona virus is highly infectious in nature. It is further stated that earlier accused was in JC, when he was released on interim bail vide order dated 04/06/2020 passed by learned ASJ-02/Central District Delhi. That he has not breached any condition during interim bail. That he is not required for any investigation and matter is already pending for trial. It is further stated that accused is suffering from multiple renal problem; that he was undergoing treatment for kidney disease from Safdarjung Hospital and is at high risk to get infected by Covid-19 infection. As such, it is prayed that his interim bail be extended.

3. On the other hand present application for extension is

State Vs Jawed @ Raja s/o Late Alauddin

FIR No.: 182/2017

PS.: Kamla Market

U.S: 395, 397, 120B, 412, 34 IPC & 25, 27 Indian Arms Act

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strongly opposed by the prosecution.

4. I have heard both the sides and gone through the record, including interim bail order dated 04.06.2020.

5. Such accused is in JC since July, 2017. As per minutes of meeting dated 18/04/2020 of Hon'ble High Court of Delhi, chronic kidney disfunction requiring dialysis is one of the disease mentioned as criteria to grant interim bail to the accused / UTP involved in offences of present nature. Therefore, having regard to the reasons stated in the order dated 06/06/2020 while granting interim bail to the accused, read with medical condition of such accused, on facts / merit of this case, his interim bail is extended for a period of 45 days on the same terms and conditions as already ordered.

6. The present application stands disposed off accordingly. Both side are at liberty to collect the order through electronic mode. ***Further a copy of this order be sent to concerned Jail Superintendent concerned for his ready reference.***

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
13.07.2020

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INTEIRM BAIL APPLICATION

State V. Kishan Kumar

FIR No. : 339/2016

PS.: Darya Ganj

U/s: 395,397,412,201,120B,34 IPC & 25,27,54,59 Arms Act

13.07.2020

Present: Mr. Pawan Kumar, Learned Addl. PP for State through VC.
Sh. Himanshu Saxena, Ld. counsel for accused/ applicant through VC.

Further, part submissions heard.

This case is already pending trial in this court. As such, no further reply is required from IO.

Put up for further arguments, if any/orders on

14.07.2020.

(Naveen Kumar Kashyap)

ASJ-04/Central/THC

13.07.2020

BAIL APPLICATION

FIR No. : 173/2013

PS: Burari

STATE v. Shanu s/o Md. Jamal

U/S: 302 IPC

13.07.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State through VC.
Mr. J.S. Mishra, Ld. Counsel for applicant through VC.

An application for extension of interim bail is filed by accused through counsel.

It is stated that applicant / accused is sole bread earner of his family; that family of accused is comprised of old aged parents and a minor child and they are at the verge of starvation, applicant was granted interim bail for 45 days vide order dated 01/06/2020. As such present application is moved for extension.

On perusal of the original interim bail order dated 01/06/2020, it is clear that accused was granted interim bail based on the relaxed interim bail criteria by Hon'ble High Court.

At this stage, it is noted that Hon'ble High Court of Delhi in W.P.(C) 3080/2020 titled as "Court on its own motion v. Govt. of NCT of Delhi & Anr.", is applicable to the interim bail granted under the relaxed criteria for interim bail given by Hon'ble High Court.

Heard.

In view of the same, there is no need to pass any specific order in the present application for extension. Same is disposed off accordingly.

Copy of this order be given dasti to counsel for applicant or through electronic mode.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
13.07.2020

BAIL APPLICATION

**FIR No. :0198/2020
PS: Nabi Karim
STATE v. Manoj s/o Mr. Hetram
U/S: 308, 34 IPC**

13.07.2020.

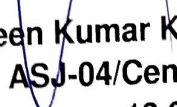
Present: Sh. Pawan Kumar, Addl. PP for the State through VC.

File is taken up today as it is reported by the staff that inadvertently FIR number could not be mentioned in the order dated 10/07/2020.

Heard. Record perused.

It is clarified that such order dated 10/07/2020 in case titled as 'State vs Manoj s/o Het Ram, was passed in case FIR No. 198/2020 PS Nabi Karim. The same is clarified accordingly.

Learned counsel for the applicant / accused is at liberty to collect the order through electronic mode. Copy of order be uploaded on the website. Further a copy of this order be sent to SHO / IO concerned.


**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
13.07.2020**

SC No.: 17/2017
FIR NO: 339/2016
PS: Darya Ganj
State v. Rahul Sharma & Ors.

13.07.2020

File taken up today regarding non-surrender of accused Noori received from Deputy Superintendent, Central Jail no.16.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State through VC.

Heard.

Case file perused.

As per record, such accused Noori was granted interim bail vide order dated 23.05.2020 passed by Ld. Bail Duty Judge on 23.05.2020.

As per record, such interim bail was granted for thirty days. Further, as per record, no order regarding extension is available on record. Further, perusal of such record dated 23.05.2020, it is clear that such interim bail was granted on merit and not on relaxed interim bail criteria dated 18.04.2020 of Hon'ble High Court.

As such, there is no question of automatic extension of the same by Hon'ble High Court dated 22.06.2020 vide order in W.P.(C) No.3080/2020 titled as "Court on its own motion v. Govt. of NCT of Delhi & Anr.,".

As such, issue NBW against such accused and notice to her surety through IO/SHO concerned.

Ahmad is directed to issue such notice forthwith through electronic mode.

(Naveen Kumar Kashyap)
ASJ-04/Central/13.07.2020