

BAIL APPLICATION

FIR No. : 02/2014
PS: Jama Masjid
STATE v. Adnan Hussain
U/S: 302,394,411,34 IPC

16.06.2020.

Undersigned is also working as 1st link of Sh.
Anuj Aggarwal, Ld. ASJ-03, Tis Hazari.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. Asgar Khan, Ld. Counsel for applicant through
VC.

Adjournment sought by learned counsel for
applicant to address arguments on regular bail.

At request, put up for arguments on regular bail
on 26.06.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

BAIL APPLICATION

**FIR No. : 46/2019
PS: Chandni Mahal
STATE v. Adnan @ Mohd. Adnan
U/S: 392,397, 411 IPC**

16.06.2020.

**Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
None for applicant.**

Reply filed by IO.

**Put up for appearance of counsel for applicant ,
arguments and appropriate orders on 19.06.2020.**

**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020**

BAIL APPLICATION

**FIR No. : 50/2020
PS: Chandni Mahal
STATE v. Mohd. Umair @Umer
U/S: 307 IPC**

16.06.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. Jaspal Singh, Ld. Counsel for applicant.

An application for extension of interim bail is filed by accused through counsel. Further a copy of interim bail dated 18.05.2020 is also annexed with such application. Such application was filed on 15.06.2020.

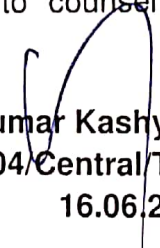
At this stage, it is pointed out by counsel for accused that after filing of such application, Hon'ble High Court of Delhi in its full bench order dated 15.06.2020 in W.P.(C) 3037/2020 titled as "Court on its own motion v. state & Ors. in re. *Extension of Interim Orders*, stated that " In view of the above, we hereby further extend the implementation of the directions contained in our order dated 25th March, 2020 and 15th May, 2020 till 15th July, 2020 with the same terms and conditions."

In view of the same, learned counsel for accused seeks liberty to withdraw the present application as prayer sought in the same is already allowed by high court till 15.07.2020.

Heard. Allowed.

In view of above, present application is disposed of as withdrawn.

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


**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020**

BAIL APPLICATION

FIR No. : 206/2015
PS: Pahar Ganj
STATE v. Pushpender
U/S: 302,397,392,411, 34 IPC

16.06.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. Arvind Kumar Garg, Ld. Counsel for
applicant.

Reply not filed by IO.

A report filed by Jail Superintendent. As per report,
conduct of accused is not satisfactory.

**As such, put up for reply, arguments on merit
and appropriate orders alongwith file on 18.06.2020.**

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

BAIL APPLICATION

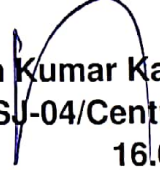
**FIR No. : 143/2020
PS: Kotwali
STATE v. Baljeet
U/S: 394,397,34 IPC**

16.06.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. Sunil Tiwari, Ld. Counsel for applicant through
VC.

Counsel for applicant is pressing for regular bail
application.

**Put up for reply, arguments and appropriate
orders on 18.06.2020.**


**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020**

BAIL APPLICATION

FIR No. : 146/2018
PS: Timarpur
STATE v. Raja Babu @ Gandhi
U/S: 304 IPC

16.06.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. A.A. Qureshi, Ld. Counsel for applicant.

Reply not filed. But it is stated that earlier application for interim bail under relaxed criteria of Hon'ble High Court of Delhi was dismissed vide dated 12.06.2019 as previous involvement of this accused in other criminal case.

As such, put up for further proceedings on merit in the present interim bail application, reply by IO , arguments and appropriate orders on 19.06.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

BAIL APPLICATION

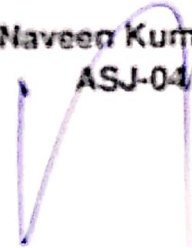
**FIR No. : 245/2018
PS: I.P. Estate
STATE v. Saidul Aziz
U/S: 307,201 IPC**

16.06.2020.

**Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
None for applicant.**

**Put up with file alongwith reply by IO,
arguments and further appropriate orders on 18.06.2020.**

**(Naveen Kumar Kashyap)
ASJ-04 Central/THC
16.06.2020**



BAIL APPLICATION

**FIR No. : 329/2017
PS: Subzi Mandi
STATE v. Salman @ Guru
U/S: 392,394,397,34 IPC**

16.06.2020.

**Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Ms. Sandeep Yadav, Ld. Counsel for applicant.**

Reply not filed by IO.

**Put up for reply, arguments and further
appropriate orders on 18.06.2020.**

**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020**

BAIL APPLICATION

FIR No. : 124/2020
PS: Pahar Ganj
STATE v. HANU MEHRA
U/S: 354A,354D,509 IPC & 8,12 POCSO Act

16.06.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. Hariom Gupta alongwith Sh.
Suprit Gupta, Ld. Counsels for applicant.

Reply filed by IO.

It is noted that in this case, inter-alia, provision of POCSO are invoked by state. It is submitted by counsel for applicant that relief is of urgent nature.

As such, put up before designated court concerned for 17.06.2020 at 12 Noon through proper channel.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

BAIL APPLICATION

**FIR No. : 143/2020
PS: Kotwali
STATE v. BOBY
U/S: 394,397,34 IPC**

16.06.2020.

**Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
None for applicant.**

Reply filed by IO. Same is taken on record.

**Put up for appearance of counsel for applicant,
arguments and further appropriate orders on 18.06.2020.**

**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020**

BAIL APPLICATION

**FIR No. : 21/2020
PS: Sadar Bazar
STATE v. Sanjay Prakash
U/S: 323,451,304, 34 IPC**

16.06.2020.

**Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. Ashok Kumar, Ld. Counsel for applicant.**

Reply not filed by IO.

**Put up for reply, arguments and further
appropriate orders on 19.06.2020.**

**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020**

At 11.30 am

At this stage, reply filed by IO. Same is taken on record.

Put up for purpose fixed on 19.06.2020.

**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020**

BAIL APPLICATION

FIR No. : 105/2020
PS: Paharganj
STATE v. AKASH
U/S: 380,411,34 IPC

16.06.2020.

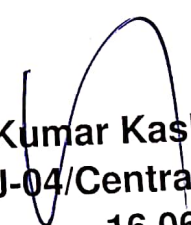
Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. Ayub Ahmad Qureshi, Ld. Counsel for
applicant.

Reply filed by IO.

Part arguments addressed by learned counsel.

It is stated that at present, he is not pressing for
regular bail but at least interim bail be considered on the ground
of directions issued by Hon'ble High Court.

**Put up for filing of such judgment of Hon'ble
High Court, filing of copy of interim bail granted to co-
accused, further arguments and appropriate orders on
19.06.2020.**


(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

BAIL APPLICATION

**FIR No. : 55/2020
PS: Paharganj
STATE v. Ashish
U/S: 376-D,354,323,34 IPC**

16.06.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. Jayendra Mishra, Ld. Counsel for applicant.

Reply not filed by IO.

Put up for reply by the IO including regarding section involved and investigated as present in present case and further appropriate order accordingly. Further, learned counsel for accused also file copy of previous interim bail orders, if any for extension of interim bail.

Put up for reply, arguments and appropriate orders on 18.06.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

BAIL APPLICATION

**FIR No. : 31/2017
PS: Delhi Cantt. Railway Station
STATE v. Kalu @ Ajay Rajput
U/S: 302,201, 34 IPC**

16.06.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
None for applicant.

Report filed by Jail Superintendent concerned. As per report, conduct of applicant is not satisfactory during judicial custody.

Report not filed by IO.

Put up for reply filed by IO, arguments on merit and further appropriate orders on 18.06.2020.

**(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020**

BAIL APPLICATION

**FIR No. : 252/2016
PS: Kotwali
STATE v. Sunder
U/S: 392,397, 34 IPC**

16.06.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. Arvind Kumar, Ld. Counsel for applicant.

An application for extension of interim bail is filed by accused through counsel. Further a copy of interim bail dated 18.05.2020 is also annexed with such application. Such application was filed on 15.06.2020.

At this stage, it is pointed out by counsel for accused that after filing of such application, Hon'ble High Court of Delhi in its full bench order dated 15.06.2020 in W.P.(C) 3037/2020 titled as "Court on its own motion v. state & Ors. in re. *Extension of Interim Orders*, stated that " In view of the above, we hereby further extend the implementation of the directions contained in our order dated 25th March, 2020 and 15th May, 2020 till 15th July, 2020 with the same terms and conditions."

In view of the same, learned counsel for accused seeks liberty to withdraw the present application as prayer sought in the same is already allowed by high court till 15.07.2020.

Heard. Allowed.

In view of above, present application is disposed of as withdrawn.

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

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

BAIL APPLICATION

FIR No. : 201/2018

PS: EOW

STATE v. Manoj Kumar

U/S: 419,420,467,468,471,120B IPC

16.06.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. Rakesh Kumar Sharma, Ld. Counsel for
applicant through VC.
IO Insp. Dharmender in person.

Arguments heard in detail from counsel for
accused.

It is argued by learned Addl. PP that charge is
framed u/s 467,468 as well as 471 apart from other sections
against present accused recently.

Let TCR be summoned at the time of further
arguments and appropriate orders on the present bail
application.

As such, put up for 18.06.2020.

(Naveen Kumar Kashyap)

ASJ-04/Central/THC

16.06.2020

BAIL APPLICATION

FIR No. : 303/2014

PS: Subzi Mandi

STATE v. Karan@ Raj Karan @ Bittoo

U/S: 302,307,34,120-B IPC

16.06.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. Saurav Sharma, Ld. Counsel for applicant
through VC.


An application for extension of interim bail is filed by
accused through counsel dated 13.06.2020.

Arguments heard.

At this stage, it is noted that after filing of such
application, Hon'ble High Court of Delhi in its full bench order dated
15.06.2020 in W.P.(C) 3037/2020 titled as "Court on its own motion
v. state & Ors. in re. *Extension of Interim Orders*, stated that " In
view of the above, we hereby further extend the implementation of
the directions contained in our order dated 25th March, 2020 and
15th May, 2020 till 15th July, 2020 with the same terms and
conditions."

In view of the same, as Hon'ble High Court has
extended such interim bail till 15.07.2020, vide such order, As
such, there is no need to pass any further order. With these
observations, present application is disposed of.

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


(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

: 1 :

BAIL APPLICATION

FIR No. : 143/2020
PS: Kotwali
STATE v. CHANDAN SINGH
U/S: 394,397,34IPC

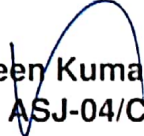
16.06.2020.

Undersigned is also working as 1st link of the court of Sh. Anuj Aggarwal, Ld. ASJ-03, Tis Hazari.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Ms. Karuna Sharma, Ld. Counsel for applicant.

Reply not filed by IO.

Put up for reply, arguments and further appropriate orders on 18.06.2020.


(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

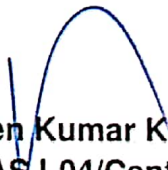
At 1.10 pm

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Ms. Karuna Sharma, Ld. Counsel for applicant.

Reply filed by IO.

Arguments heard.

Put up for orders at 4 pm.


(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

AT 4 pm

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State.

Vide this regular bail application dated 28.05.2020

filed through counsel is disposed of.

It is stated in such application that, as also argued by learned counsel, that mother of the accused is a widow, old lady. That sister of the accused is a T.B. patient. Copy of such treatment is enclosed with the application. That he is falsely implicated in the present application. That nothing is recovered from his possession and he is no more required for the purpose of investigation. That there is no other criminal involvement of such accused. That he is the sole bread earner of the family. That as such, he be granted regular bail.

On the other hand, a reply filed by IO/SHO, as also argued by learned Addl. PP for state, that case property/scooty in question was robbed by firing through fire arms. Later on, such scooty alongwith cash was recovered at instance of the accused from his possession from his house. That chargesheet is already filed. But no other criminal record of the accused is found as per record.

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

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 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

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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

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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**).

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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

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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 this case, the offence alleged against the accused includes section 394 IPC which is punishable upto imprisonment upto life or imprisonment for ten years. As such, having regard to nature of offence and the manner in which it

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was committed i.e. by firing on road in order to commit the offence in question, which amounts to nuisance/problem to the public at large, and the stage of case where concerned material witnesses are not yet examined, this court is not inclined to grant the bail to the present accused at this stage.

With these observations, this bail application is dismissed.

Learned counsel for the applicant / accused is at liberty to collect the order dasti or through electronic mode. Copy of order be uploaded on the website.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

BAIL APPLICATION

FIR No. : 221/2015
PS: Karol Bagh
STATE v. Bablu Mathur & Ors.
U/S: 302,392,394,411,34 IPC

16.06.2020.

Undersigned is also working as 1st link to the court of Sh. Anuj Aggarwal, Ld. ASJ-03, Tis Hazari.

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

Reply filed by Jail Superintendent concerned. But no reply filed by IO at all.

As such, put up for reply from IO in terms of order dated 09.06.2020. File also be put up on next date.

Put up on 20.06.2020 for reply, arguments and appropriate order.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

: 1 :

BAIL APPLICATION

**FIR No. : 113/2020
PS: Pahar Ganj
STATE v. Ritesh @ Kapil
U/S: 326-A IPC**

16.06.2020.

Undersigned is also working as 1st link of the court of Sh. Anuj Aggarwal, Ld. ASJ-03, Tis Hazari.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. P.K. Garg, Ld. Counsel for applicant.

Vide this order, interim bail application dated 28.05.2020 is disposed of.

It is argued by counsel for accused that accused is in JC since last two years, that he is falsely implicated in the present case. That present interim bail application is moved as father and mother of accused are suffering from high blood pressure, sugar, joint pain. That they are unable to take care of themselves presently in present pandemic condition. That there is nobody to look after them. As such, it is prayed that he be granted interim bail for 45 days.

On the other hand, such bail application is vehemently opposed by Ld Addl. PP for the state on the ground that offence is serious in nature. It is further stated that case of the accused do not fall under relaxed interim bail criteria, as it is not his case that he himself is suffering from any illness as mentioned by Hon'ble high Court in its order dated 18.04.2020. It is further stated that part evidence of victim is recorded and further evidence is yet to be recorded. As such, present

: 2 :

application is opposed.

I find force in the argument of learned Addl. PP for the state. Having regard to the nature of allegations against the accused, and the evidence came on record so far which is punishable upto life imprisonment and the stage of the trial where victim evidence is yet not complete, this court is not inclined to grant interim bail to the accused at this stage. It may be noted that victim is the wife of the accused and there are serious allegation of acid attack by the husband on such wife/victim.

With these observations, present application is dismissed.

Learned counsel for the applicant is at liberty to collect the order dasti or through electronic mode.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

: 1 :

BAIL APPLICATION

FIR No. : 271/2018

PS: DBG Road

STATE v. Akash @ Prakash@ Chinu

U/S: 392,394,397,326,307,341 IPC

16.06.2020.

Undersigned is also working as 1st link of the court of Sh. Anuj Aggarwal, Ld. ASJ-03, Tis Hazari.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. P.K. Garg, Ld. Counsel for applicant.

Vide this order, bail application dated 21.05.2020 is disposed of.

It is argued by counsel for accused that accused is in JC since 07.12.2018. That mother and father of the accused are suffering from various old aged illness including high B.P., sugar, joint pain etc. and other diseases. That there is nobody else to take care of such old and ailing parents. As such, she seeks interim bail for 45 days.

On the other hand, such bail application is vehemently opposed by Ld addl. PP for the state on the ground that offence is serious in nature.

In view of the directions passed by Hon'ble High Court including dated 18.05.2020, relating to offence u/s 307 IPC, before proceeding further, let a report be summoned from IO/SHO to file :

(i) Report about Previous **conviction**, if any, of present accused/Applicant

(ii) Further, (in view of direction by Hon'ble HC), a report that present accused is **not involved**, in any other case;

: 2 :

- iii) Date, since when accused is in JC in present case:
- iv) What are **all** the Offences under IPC or other law, which are alleged against present accused in present case .
- v) Details i.e. date of order, outcome(whether interim bail allowed or dismissed) and name of such learned court, of the last interim bail application,if any, moved by the present accused.

As such, issue notice of present application to the IO/ SHO .

Further (in view of direction by Hon'ble HC), **Jail Superintendent concerned** to file:

- (i) Copy of **custody warrant** of present accused;
- (ii) A **certificate regarding good conduct**, if any, of the accused during his custody period so far.

As such, issue notice to the IO/SHO as well as Jail Superintendent accordingly.

Further, in view of directions passed, copy of this order be sent to SHO/IO concerned **through Nodal Officer Insp. Vijay Vats, Mobile No. 9810127561**. The concerned IO/SHO to file its reply through Nodal officers, preferably in electronic form/email ,as per the directions already issued.

Counsel for accused is advised to collect the order online through electronic mode.

Put up for report, arguments and further appropriate orders on 20.06.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

: 1 :

BAIL APPLICATION

**FIR No. : 48/2015
PS: Nabi Karim
STATE v. Krishan
U/S: 186,353,333,307,201,34 IPC &
25,27 Arms Act.**

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. Deepak Sharma, Ld. Counsel for applicant.

Vide this order, application dated 11.06.2020 filed through counsel by such accused is disposed of.

As per such application, accused is in JC since 01.02.2015 i.e. more than five years. That co-accused Vikas is already granted bail in October, 2018. As such, on the ground of parity also present bail application is pressed. It is further stated that role of present accused is lesser than other accused which is clear from the reading of the evidence on record so far. That one of the witness did not even name the present accused. It is further argued that there were some lapses on the part of police in illegally raiding house of the present accused. As such, now when certain observation made by this court, then ultimately after a delay of five years, on the basis of statement of Smt. Sunita dated 31.01.2015 a FIR no. 62/2020 is registered under Section 304-A IPC. It is further argued that no purpose would be served by keeping the accused in JC. Further, certain case law is also relied by the learned counsel.

On the other hand, it is argued by learned Addl. PP for the state that even the report filed by Jail Superintendent, conduct of accused is not satisfactory during his judicial custody and punishment are raised against such accused on four different

FIR No. : 48/2015, PS: Nabi Karim, STATE v. Krishan

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occasions. That the present accused actively participated in attacking and instigating attack on Delhi Police officials. That bail of the co-accused is recently dismissed by this court only and there is no material change.

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

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 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

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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

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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

FIR No. : 48/2015,PS: Nabi Karim, STATE v. Krishan

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

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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 this case, part of prosecution evidence is still

: 7 :

pending. There are serious allegations including against the present accused. Further, the nature of attack and the manner in which it was carried out, that too upon police officials, and nature of injury sustained by the police party, this court is not inclined to grant regular bail to the present accused at this stage. Further, although parity is one of the ground but it is not the sole ground. Further, it is also a matter of record that bail application of co-accused was recently rejected on 18.02.2020 and there is no material change in circumstances since then in the present case proceedings. **With these observations, this bail application is dismissed.**

Learned counsel for the applicant / accused is at liberty to collect the order dasti or through electronic mode.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

BAIL APPLICATION

FIR No. : 303/2014
PS: Subzi Mandi
STATE v. Vikrant Sagar
U/S: 302,307,120-B, 34 IPC

16.06.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. Hemant Gulati, Ld. Counsel for applicant
through VC.

Reply filed by IO.

Arguments heard on present interim bail application.

Put up for appropriate orders at 4 pm.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

At 4 pm

An application for interim bail dated Nil is filed by the accused. Thereafter, an application for placing on record original documents is also filed dated 15.06.2020. Same be tagged and merged with main interim bail application. Same is tagged accordingly.

Reply filed by SI Dhan Singh dated 16.06.2020.

In view of directions of Hon'ble High Court including of 18.05.2020, before proceeding further, let a report be called from Jail Superintendent concerned regarding conduct of accused during judicial custody.

Put up on 20.06.2020 for further arguments, report from Jail Superintendent and appropriate orders.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

BAIL APPLICATION

**FIR No. : 264/2015
PS: Subzi Mandi
STATE v. Ajay
U/S: 393,397,302 IPC**

16.06.2020.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
Sh. Jabbar Hussain, Ld. Counsel for applicant.

An application for extension of interim bail is filed by accused through counsel dated 08.06.2020.

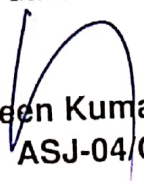
Reply filed by IO.

Arguments heard.

At this stage, it is noted that after filing of such application, Hon'ble High Court of Delhi in its full bench order dated 15.06.2020 in W.P.(C) 3037/2020 titled as "Court on its own motion v. state & Ors. in re. *Extension of Interim Orders*, stated that " In view of the above, we hereby further extend the implementation of the directions contained in our order dated 25th March, 2020 and 15th May, 2020 till 15th July, 2020 with the same terms and conditions."

In view of the same, as Hon'ble High Court has extended such interim bail till 15.07.2020, vide such order. As such, there is no need to pass any further order. With these observations, present application is disposed of.

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


(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

BAIL APPLICATION

FIR No. : 292/2014
PS: Rajinder Nagar
State v. Pooja & Ors.
U/S: 302,392,397,411,120-B,34 IPC

16.06.2020.

Undersigned is also working as 1st link to the court of Sh. Anuj Aggarwal, Ld. ASJ-03, Tis Hazari.

Present: Sh. Pawan Kumar, Ld. Addl. PP for the State
None for accused/applicant.

Due to bail roster duty, it is already 5 pm.

No time left.

Put up on 17.08.2020.

(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020

: 1 :

BAIL APPLICATION

FIR No. : 83/2020

PS: Kashmere Gate

STATE v. ANIL

U/S: 147,148,149,188,186,353,436,269,270,34 IPC

16.06.2020.

Undersigned is also working as 1st link of the court of Sh. Anuj Aggarwal, Ld. ASJ-03, Tis Hazari.

Present: Mr. Pawan Kumar, Ld. Addl. PP for the State
Sh. S.K. Sharma, Ld. counsel for applicant/
accused.

Vide this application dated 11.06.2020 for regular bail filed through counsel is disposed of.

It is stated in such application that accused came to Delhi to work as baildaar. That he has wrongly apprehended in the present case as he was wandering alongwith other people to go back to Aligarh. That investigation is already complete. That he has not caused any injury or damaged to the "Rain Basera" in question. That he is ready to comply with conditions as may be imposed by the court.

On the other hand, it is argued by learned Addl. PP for state as also reply filed by IO. That such accused alongwith other caused damaged^{to u} three shelter homes and set the same on fire and he was arrested in same connection. It is further stated that some other person was also arrested and they were discharged as witness could not identify other accused persons in TIP. It is further stated that offence is serious in nature. That he does not have any permanent address and may jump the

bail.

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

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 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 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. (**Sundeeep 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

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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

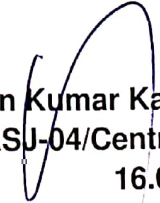
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examination of evidence and elaborate documentation of the merit of the case is not required to be undertaken. Though the court can make some reference to materials but it cannot make a detailed and in-depth analysis of the materials and record findings 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 this case, the offences alleged against the accused includes section 436 IPC which is punishable upto imprisonment upto life or imprisonment for ten years. As such, having regard to nature of offence and the manner in which it was committed i.e. setting on fire shelter homes meant for needy people during this pandemic situation, this court is not inclined to grant the bail to the present accused at this stage.

With these observations, this bail application is dismissed.

Learned counsel for the applicant / accused is at liberty to collect the order dasti or through electronic mode. Copy of order be uploaded on the website.


(Naveen Kumar Kashyap)
ASJ-04/Central/THC
16.06.2020