

STATE Vs. Ajay
FIR No. 137/20
PS Rajender Nagar

28.08.2020

(Through Video Conferencing over Cisco Webex Meeting)
Case taken up in view of directions issued by Hon'ble High Court of
Delhi vide office order No. 322/RG/DHC/2020 dt. 15.08.2020.

Present: Ld. APP for the State.
Sh. Deepak Kumar, Ld. LAC for accused.
IO/ASI Daryao Singh in person.

The present application was filed through email. Scanned copy of
reply under the signatures of IO/ASI Daryao Singh is also received through email.
Copy already stands supplied to Ld. LAC for applicant, electronically.

Heard. Record perused.

This order shall dispose of the bail application u/s 437 Cr.P.C.
moved on behalf of applicant/accused Ajay Patwa.

It is averred on behalf of accused/applicant that he has been falsely
implicated in the present case. It is further averred that the recovery effected from
the accused is planted one. It is further averred that the case of applicant is not
covered any of the directions given by HPC till date and he is seeking regular bail.
With these averments, prayer is made for grant of bail to accused.

Ld. APP for the State submits that the accused shall not be released
on bail as he is a habitual offender, having previous involvements.

On perusal of the previous conviction/involvement report appended
in the record, it emerges that the accused is having previous involvements in certain
other cases, involving serious offences. More particularly, the accused has been
shown to have complicity in respect of case FIR No. 484/16 u/s 392/34 IPC, PS
Prasad Nagar, FIR No. 718/15 u/s 392/411/34 IPC, FIR No. 258/15 u/s 392/411/34
IPC, FIR No. 11514/20 u/s 379/411/34 IPC, FIR No. 35/20, u/s 392/411/34 IPC all
at PS Rajender Nagar, FIR No. 12/17 PS Outer West, FIR No. 240/20 u/s
356/379/411/34 IPC, PS Punjabi Bagh, FIR No. 126/20 u/s 392/34 IPC, PS
Inderpuri, FIR No. 118/18 u/s 380/454/34 IPC, FIR No. 159/18 u/s 454/380/34 IPC
both at PS Patel Nagar, e-FIR No. 110/16 u/s 379/411/34 IPC and e-FIR No.


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183/18 u/s 379/411/34 IPC. If that be so, the apprehension of prosecution that if enlarged on bail, he will commit the offences of like nature or will dissuade the material prosecution witnesses, appears to be well justified.

In such circumstances, this court is of the firm view that no ground for grant of bail is made out to the accused/applicant. Accordingly, the present application deserves dismissal and same is hereby dismissed.

Scanned copy of this order be sent to Ld. LAC for applicant and to concerned Jail Superintendent, electronically for necessary compliance.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.


(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
28.08.2020

STATE Vs. Nitesh Phore & Ors.
PS Rajender Nagar
FIR No. 30/20

28.08.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of directions issued by Hon'ble High Court of Delhi vide office order No. 322/RG/DHC/2020 dt. 15.08.2020.

Present: Ld. APP for the State.

This is a fresh application seeking permission to record voice sample of accused persons, namely, Nitesh Phore, Ankit, Naveen Dabas, Varun Vashishth, Amit Kumar Shukla and Sushil @ Sillu, Lakhan Verma and Abhay Arora.

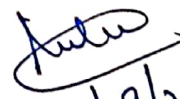
Heard.

IO submits that in pursuance of order dt. 25.08.2020, he went to CFSL, CBI, Lodhi Road, New Delhi but he was declined any date for voice sampling of accused persons on the pretext that the concerned department of CFSL, CBI, Lodhi Road, was over loaded with large number of pending cases. IO submits that the directions be given for collecting voice sample of the accused persons at CFSL, Rohini.

Copy of correspondence dt. 26.08.2020 addressed by HOD (Physic), CFSL, CBI, to the SHO, PS Rajender is also perused.

The issue of recording of voice sample was considered by the Hon'ble Punjab & Haryana High Court in **Darshan Singh Vs The District And Sessions Judge** (LPA No. 676 of 2011 decided on 12.07.2011), the relevant portion of which has been extracted below:

“The argument of the learned counsel that fundamental right of the appellant under Article 20(3) of the Constitution would be violative by giving voice sample would not survive in view of 11 Judges Bench judgement rendered by Hon'ble the Supreme Court in the case of State of Bombay v. Kathi Kalu Oghad AIR 1961 SC 1808 wherein it was held that giving a thumb impression etc. would not amount to be a witness against one self and such a course would be is within the meaning of Article 20(3) of the Constitution. Over-ruling the Full Bench judgement of Kerala High Court rendered in the case of State of Kerala v. K.K.Sankaran Nair AIR 1960 Kerala 392. Hon'ble the Supreme Court in para 32 of the judgement has propounded the following views which is a complete answer to the argument raised by the learned counsel for the petitioner and the same reads as under:


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" 32. The question then is" Is an accused person furnishing evidence when he is giving his specimen handwriting or impressions of his fingers, or palm or foot? It appears to us that he is : For these are relevant facts, within the meaning of S. 9 and S. 11 of the Evidence Act. Just as an accused person is furnishing evidence and by doing so, is being a witness, when he makes a statement that he did something, or saw something, so also he is giving evidence and so is being a "witness", when he produces a letter the contents of which are relevant under S. 10, or is producing the plan of a house where a burglary has been committed, or is giving his specimen handwriting or impressions of his finger, palm or foot. It has to be noticed however that Art. 20 (3) does not say that an accused person shall not be compelled to be a witness. It says that such a person shall not be compelled to be a witness against himself. The question that arises therefore is: Is an accused person furnishing evidence against himself, when he gives his specimen handwriting, or impressions of his fingers, palm or foot? The answer to this must in our opinion be in the negative."

Further, in case titled as "Ritesh Sinha Vs. State of U.P. & Anr. 2019 SCC Online SC 956 decided on 02.08.2019, it also stands settled by Hon'ble Apex Court that the direction for giving voice sample by accused does not amount to compulsive testimony in terms of article 20(3) of the Constitution of India.

In view of the discussion made above and in the light of judgments, cited above, I am of the view that for the effective investigation of the present case, the voice sampling of accused persons is necessary. Accordingly, the present application is allowed.

IO submits that he would seek a date from the Director, CFSL, Rohini for recording the voice sample of the accused persons and he is likely to get a date in the next week. Accordingly, a copy of this order be sent to Suptt. Jail concerned, who is directed to produce the accused persons in JC before the Director, CFSL, Rohini on the date fixed. As the accused persons are already in JC, a copy be also sent to Director, CFSL, Rohini dasti through IO who is directed to fix nearest possible date. The application is accordingly disposed of.

Scanned copy of this order be sent to the Ld. Counsel for applicant



through email. One copy be also sent to concerned Jail Superintendent through all permissible modes including email at daksection.tihar@gov.in, for necessary information and compliance. Scanned copy of the order be also sent to Computer Branch for uploading on Delhi District Court Website.


(RISHABH KAPOOR)

MM-03(Central),THC,Delhi

28.08.2020

STATE Vs. Ashif
FIR No. 190/20
PS Rajender Nagar

28.08.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of directions issued by Hon'ble High Court of Delhi vide office order No. 322/RG/DHC/2020 dt. 15.08.2020.

Present: Ld. APP for the State.

Sh. Sachin Dev Sharma, Ld. Counsel for applicant.

IO/ASI Daryao Singh in person

The present urgent application was filed on behalf of the applicant on email id of this court.

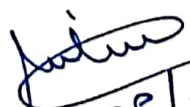
Scanned copy of reply of under the signatures of IO/ASI Daryao Singh, is received through email id of the court. Copy of same is already supplied to counsel of applicant/accused, through email.

This order shall dispose off the application for grant of bail u/s 437 Cr.PC, moved on behalf of *applicant/accused Ashif*.

It is stated that the applicant is innocent and has been falsely implicated in the present case. It is further averred that the custodial interrogation of the applicant/accused is no more required, nor any recovery is left to be effected from him. It is further averred that applicant is sole bread earner of his family. With these averments prayer is made for enlarging applicant on bail.

Ld. APP for State has opposed the present application citing seriousness of allegations and made a prayer for dismissal of the present application.

In the present case, the applicant was arrested for the offences u/s 454/380/411/34 IPC. As per reply filed by IO/ASI Daryao Singh, the recovery of allegedly stolen vehicle i.e. 4 ACs, 5 Ceiling Fans and 5 Taps, has already been effected, in the present case. It is also not disputed that applicant/accused is the first time offender having no previous criminal antecedents. As the recovery of the case property has already been effected from the accused, coupled with the fact that the accused has never been involved in any of the offences, and as such is having clean previous antecedents, therefore, there does not exist any apprehension that if enlarged on bail, he will commit offences of like nature or will dissuade the prosecution

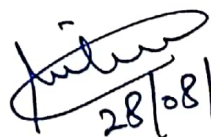

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witnesses. Further, the trial of the case would take a long time and till then the liberty of the accused cannot be curtailed, when his custody is as such not required for the investigation purposes. Even otherwise also, the presence of the accused during the course of remaining investigation, if any, as well as during trial can be ensured by taking sufficient sureties undertaking to ensure his presence. If so, in the circumstances, I am of the view that there exists no ground in further curtailing the liberty of the applicant/accused.

At this juncture, it is also pertinent to cite the observations made by the Hon'ble apex court *In Sanjay Chandra versus CBI (2012) 1SCC 40*, wherein it was observed that the courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest 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 un-convicted persons should be held in custody pending trial to secure their attendance at trial but in such cases, necessity is the operative test. The Hon'ble Apex court further observed that in this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person 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 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 that it would be improper for any court to refuse bail as a mark of this approval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for purpose of giving him a taste of imprisonment as a lesson.

In the light of the discussion made above, I am of the view that the contentions of the prosecution appears to be untenable and as such, there exists no reasonable justification, in not enlarging the applicant/accused, on bail. Accordingly, the accused/applicant Ashif is hereby ordered to be enlarged on bail, subject to following conditions;

- 1 That the applicant shall furnish personal and surety bonds in the sum of


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sum of Rs.15,000/- each, to the satisfaction of Ld. Duty MM (on court duty).

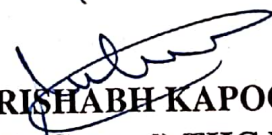
- 2 That the applicant shall make himself available as and when required to do so by the investigating agency or the police;
- 3 That the applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing any facts to the court or the police;
- 4 That the applicant shall not tamper with the prosecution evidence nor he will try to win over the prosecution witnesses or terrorize them in any manner; and
- 5 That the applicant shall not deliberately and intentionally act in a manner which may tend to delay the investigation and trial of the case.
- 6 That the applicant shall not leave the territories of India during the pendency of present case proceedings except with the permission of the court.

The application is accordingly disposed of.

Scanned copy of this order be sent to the Ld. Counsel for applicant through email. One copy be also sent to concerned Jail Superintendent through all permissible modes including email at daksection.tihar@gov.in , for necessary information and compliance.

Scanned copy of the order be also sent to Computer Branch for uploading on Delhi

District Court Website.


(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
28.08.2020

Meenakshi Wadhwa Vs. Vinind Wadhwa & Ors.

28.08.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of directions issued by Hon'ble High Court of Delhi vide office order No. 322/RG/DHC/2020 dt. 15.08.2020.

Present: Sh. Kulbhushan Mehta, Ld. Counsel for applicant.

Pursuant to directions issued on 14.08.2020, scanned copy of the status report under the signatures of SI Mahipal Singh duly forwarded by SHO PS Rajender, is received through email. Copy of same be supplied to counsel for applicant, electronically.

Status report is perused.

As per the status report, the complaints filed by complainant vide DD No. 46A dt. 24.12.2019, DD No. 21 dt. 23.01.2020, DD No. 41 Dt.26.02.2020 and DD No. 66A Dt. 16.06.2020, commission of no cognizable was found. It is also stated in the report that during inquiry, it was revealed that the bone of contention behind the quarrel is the property in dispute qua which a civil case is also pending adjudication.

Since, in the present application, the prayer of applicant was only to the extent of calling the status report regarding the complaints made by the complainant, and as such the status report has already been received, therefore, the present application stands disposed off.

It is clarified that this order shall be without prejudice to rights of the applicant to file further application/complaint in accordance with law, if so advised.

Scanned copy of this order be sent to counsel for applicant through email.

One copy sent to Computer Branch to uploading on Delhi District Courts Website.


(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
28.08.2020

Cr. Case 3831/2020
STATE Vs. AJAY PATWA @ KUNAL PATWA
FIR No. 35 /2020 (Rajinder Nagar)

28.08.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of directions issued by Hon'ble High Court of Delhi vide office order No. 322/RG/DHC/2020 dt. 15.08.2020.

Present: Ld. APP for the State.

Accused stated to be in JC.

Heard. Record perused.

On the basis of material available on record, since, there exists a prima facie to case to proceed against accused for offences u/s 392/411/34 IPC. Hence, cognizance is taken.

In compliance to section 207 Cr.P.C, the IO is directed to supply the copy of charge sheet to accused through concerned Jail Superintendent.


Put up for scrutiny of documents and arguments on charges on 15.09.2020.

The accused be joined for hearing through VCC over Cisco Webex on date fixed.

Concerned Jail Superintendent is directed to do needful.

Copy of this order be sent to concerned Jail Superintendent and IO concerned, for compliance.

IO shall also remain present on next date to apprise about the status of investigation with regard to co-accused Neeraj.


(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
28.08.2020

Cr. Case 3832/2020
STATE Vs. AJAY PATUA @ KUNAL PATUA
FIR No. 137 /2020 (Rajinder Nagar)

28.08.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of directions issued by Hon'ble High Court of Delhi vide office order No. 322/RG/DHC/2020 dt. 15.08.2020.

Present: Ld. APP for the State.

All accused are stated to be in JC.

Heard. Record perused.

On the basis of material available on record, since, there exists a prima facie case to proceed against accused persons for offences u/s 452/392/411/34 IPC. Hence, cognizance is taken.

In compliance to section 207 Cr.P.C, the IO is directed to supply the copy of charge sheet to accused persons through concerned Jail Superintendent.

Put up for scrutiny of documents and arguments on charges on 15.09.2020.

The accused persons be joined for hearing through VCC over Cisco Webex on date fixed.

Concerned Jail Superintendent is directed to do needful.

Copy of this order be sent to concerned Jail Superintendent and IO concerned for compliance.

IO shall also remain present on next date to apprise about the status of investigation with regard to co-accused Neeraj.

(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
28.08.2020

Cr. Case 4177/2020
STATE Vs. SIMRANJEET SINGH
FIR No. 00146 /2020 (I P Estate)

28.08.2020

(Through Video Conferencing over Cisco Webex Meeting)

Case taken up in view of directions issued by Hon'ble High Court of Delhi vide office order No. 322/RG/DHC/2020 dt. 15.08.2020.

Present: Ld. APP for the State.

Accused stated to be in JC.

IO/HC Mahesh Kumar.

Heard. Record perused.

On the basis of material available on record, since, there exists a prima facie to case to proceed against accused for offences u/s 379/411 IPC. Hence, cognizance is taken.

In compliance to section 207 Cr.P.C, the IO is directed to supply the copy of charge sheet to accused through concerned Jail Superintendent.

Put up for scrutiny of documents and arguments on charges on 15.09.2020.

The accused be joined for hearing through VCC over Cisco Webex on date fixed.

Concerned Jail Superintendent is directed to do needful.

Copy of this order be sent to concerned Jail Superintendent and IO concerned, for compliance.

(RISHABH KAPOOR)
MM-03(Central),THC,Delhi
28.08.2020