

IN THE COURT OF A.C.M.M. -EAST KKD DELHI

State vs. Rohit @ Didawala

FIR no. 391/2020

PS New Ashok Nagar

U/s 379/356/411/34 IPC

12.10.2020

A bail application u/s 437 Cr.P.C received from Jail Superintendent. The present bail application has been taken up today through physical hearing according to the Office Order no. 417/RG/DHC/2020 dated the Delhi, 27.08.2020, issued by Hon'ble High Court of Delhi and Order no. 5576-94/JUDL.BR./East/KKD/Delhi dated 29.08.2020 as well as Order no. 5357-5377/JUDL.BR./East/KKD/ Delhi dated 28.09.2020 issued by Ld. Distt. & Sessions Judge, East, Karkardooma Courts, Delhi.

Present: Ld. Subs. APP for the State.

Sh. S.N. Jha, ld. LAC for the applicant/accused

Reply is received from the IO.

Accused is stated to be in JC.

Submissions on bail application heard. Reply of IO perused.

I It is stated by learned LAC for accused/applicant that the accused is a young boy aged about 22 years and has been falsely implicated in the present case and he is in J.C since 01.09.2020. It has been argued that investigation has already been completed and no fruitful purpose would be served by keeping the accused/applicant in J/C. Nothing has been recovered from his possession. Hence, it is prayed, that accused/applicant may be granted bail.

Ld. APP submits that appropriate order as per law may be passed.

I have heard the submissions and perused the record.

The accused is shown to be in custody since 01.09.2020. His custody is not required for further investigation. This is a period when there is need of decongestion of jails due to COVID-19 Pandemic. Considering the circumstances, nature of offence in question and the age of the accused/applicant, accused/applicant is hereby granted bail on furnishing bail bond in the sum of Rs. 15,000/- with one surety of like amount and subject to verification of address of accused as well as her surety, with the following directions : -

1. He shall not change his address without intimation to the Court.
2. He will not try to influence the witnesses.
3. He will not leave the country without prior permission of the court.
4. He will not involve in similar type of offences after releasing on bail.

With above directions, bail application of accused stands disposed of.

Copy of this order be sent to Jail Superintendent concerned for necessary information and compliance, if any and to supply the copy to the accused.

Copy be given dasti to the ld. LAC.

Order be uploaded on the server.

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(DINESH KUMAR)
ACMM (EAST)/KKD/12.10.2020

IN THE COURT OF A.C.M.M. -EAST KKD DELHI

State vs. Mohd. Zahid
FIR no. 153/2020
PS Preet Vihar
U/s 186/353/332/188/34 IPC
& u/s 25/54/59 Arms Act

12.10.2020

Case file is taken up today on the bail application u/s 437 Cr.P.C moved on behalf of applicant/accused Mohd. Zahid. The present matter has been taken up today through physical hearing according to the Office Order no. 417/RG/DHC/2020 dated the Delhi, 27.08.2020, issued by Hon'ble High Court of Delhi and Order no. 5576-94/JUDL.BR./East/KKD/Delhi dated 29.08.2020 as well as Order no. 5357-5377/JUDL.BR./East/KKD/ Delhi dated 28.09.2020 issued by Ld. Distt. & Sessions Judge, East, Karkardooma Courts, Delhi.

Present: Ld. Subs. APP for the State.

Sh. Yogesh Kumar, ld. counsel for the applicant

Reply is received from the IO.

Accused is stated to be in JC.

Submissions on bail application heard. Reply of IO perused.

I It is stated by learned counsel for accused/applicant that the accused has been falsely implicated in the present case and he is in J.C since 07.08.2020. It has been argued that co-accused namely Khushi, Fatima, Rustom and Mohd. Polu have already been granted bail by this court and the applicant also seeks the ground of parity. It is further argued that investigation

has already been completed and charge sheet has also been filed and no fruitful purpose would be served by keeping the accused/applicant in J/C. Nothing has been recovered from his possession. Hence, it is prayed, that accused/applicant may be granted bail.

Ld. APP submits that appropriate order as per law may be passed.

I have heard the submissions and perused the record.

The accused is shown to be in custody since 07.08.2020. Co-accused have already been granted bail by this court. Charge sheet has also been filed in the court. His custody is not required for further investigation. This is a period when there is need of decongestion of jails due to COVID-19 Pandemic. Considering the circumstances, nature of offence in question, no previous involvement of accused and the age of the accused/applicant, accused/applicant is hereby granted bail on furnishing bail bond in the sum of Rs. 10,000/- with one surety of like amount and subject to verification of address of accused as well as her surety, with the following directions : -

1. He shall not change his address without intimation to the Court.
2. He will not try to influence the witnesses.
3. He will not leave the country without prior permission of the court.

4. He will not involve in similar type of offences after releasing on bail.

With above directions, bail application of accused stands disposed of.

Copy of this order be sent to Jail Superintendent concerned for necessary information and compliance, if any and to supply the copy to the accused.

Copy be given dasti to the ld. Defence counsel

Order be uploaded on the server.

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(DINESH KUMAR)
ACMM (EAST)/KKD/12.10.2020

IN THE COURT OF ACMM-EAST KKD DELHI
FIR No. 80/2019
PS New Ashok Nagar
State Vs. Chhalesh Chandra
12.10.2020

Fresh charge-sheet u/s 173 Cr.P.C. is filed. It be checked and registered as per rules.

Present: Ld. Substitute APP for the State.

Accused in person.

IO in person.

Sh. Satender Kumar, ld. Counsel for accused.

There is one application filed by the IO for condonation of delay in filing of the challan. Perusal of the challan would show that the present challan has been filed alleging the offences punishable, inter-alia, under section 332/344/461 DMC Act. Ld. MM-01 East is the designated Court to decide the criminal cases under DMC Act. Therefore the file be put up before Ld. CMM East Distt. KKD for further directions in this regard on 28.10.2020.

Accused is directed to appear before Ld. CMM East Distt. KKD for 28.10.2020.

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ACMM (EAST)/KKD/12.10.2020

IN THE COURT OF ACMM-EAST KKD DELHI

FIR No: 104/2020

PS Crime Branch

State Vs. Durga Prashad

u/s 307/341/397/412/419/420/120-B/34 IPC & 25/27 Arms Act.

12.10.2020

A bail application of accused under Section 437 Cr.P.C.

Present: Ld. substitute APP for the State.
Sh. Manoj Chauhan, Ld. counsel for accused/
applicant.
SI Ashish Kumar from Crime Branch.
Accused is stated to be in J/C.
Reply has already been filed.

Further arguments heard.

It has been argued by Ld. Counsel for accused/applicant that the applicant/accused is an innocent person. As per law the charge-sheet must have been filed by the IO within a period of 60 days from the date of arrest of the applicant/accused. However charge-sheet was not filed within the said period. Hence the accused/applicant is entitled to bail u/s 167(ii) Cr.P.C. Hence it is prayed that the applicant may be granted bail as per law.

Learned APP has opposed the application. It has been argued that the allegations against the accused prima facie discloses commission of offences punishable, inter-alia, U/s 307/341/397/412/419/420/120-B/34 IPC & 25/27 Arms Act. Section 307, 412 and 395 provides punishment of life imprisonment. Hence the statutory period to file the challan is 90 days and not 60 days. Hence it is prayed that the application is not maintainable and it may be dismissed.

In rebuttal, ld. Counsel for the applicant/accused would argue that the material on record does not disclose commission of

offence falling in part (ii) of section 307 of IPC. Further section 395 IPC had not been added by the IO in the challan. Also Section 412 IPC is not made out in the present case. In any case none of these offences provides punishment of life imprisonment and minimum sentence of ten years and therefore the charge-sheet must have been filed within a period of 60 days. Ld. Counsel has relied upon the judgment of Hon'ble Supreme Court of India in Rakesh Kumar Paul Vs. State of Assam, SLA (criminal) no. 2176/2017 decided on 16.08.2017.

I have heard the rival submissions and perused the material available on record.

Perusal of the record would show that in the FIR itself it is mentioned that at the time of stealing the property from the possession of the complainant/victim there were seven and eight persons who had committed the offence on gun point. Thus, the prima facie offence punishable under section 395 IPC is made out which provides punishment for life. Further it is also mentioned in the FIR itself that when the son of the complainant had tried to stop the accused and his associates by standing in front of their car, they had tried to kill him by hitting with the car. He had suffered injury. Thus, ingredients of section 307 part (2) are also prima facie made out which provides punishment of life imprisonment. Further it is also prima facie shown that part of the property which was transferred by the commission of dacoity was recovered from the possession of the accused. Hence prima facie offence punishable under section 412 IPC is also made out which provides punishment of life imprisonment.

The judgment relied upon by the ld. Counsel for accused does not support the contentions made by him. In para 30 of the said judgment Hon'ble Supreme Court has held that section 167 (2) (a) (i)

will be applicable in cases where the accused is charged with (i) offences punishable with death and any lower sentence; (ii) offences punishable with life imprisonment and any lower sentence and (iii) offences punishable with minimum sentence of 10 years. The Hon'ble Supreme Court has held that section 167 (2) (a) (ii) will be applicable in cases where the minimum sentence is less than 10 years but maximum sentence is not death or life imprisonment.

In the present case, as discussed hereinabove, the accused is suspected of committing offences punishable with life imprisonment and therefore the statutory period to file the charge-sheet is 90 days. The application is therefore not maintainable. It is dismissed and disposed of accordingly.

Ld. counsel for the applicant is directed to file the original bail application along with documents in the court within 2 days from today.

Copy of the order be sent to the Jail Superintendent concerned for necessary compliance, if any and to supply a copy of the order to the accused.

Copy be given dasti to the ld. counsel for applicant/accused and order be uploaded on the server.

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(DINESH KUMAR)
ACMM (EAST)/KKD/12.10.2020

IN THE COURT OF A.C.M.M. -EAST KKD DELHI
FIR No. 125/2020
PS New Ashok Nagar
State Vs Unknown
12.10.2020

Application for grant permission to sell the damaged car
moved on behalf of
applicant Sh. Satish Chhabra.

Present: Ld. Substitute APP for the State.

None for the applicant despite repeated calls given.

Put up on 13.10.2020.

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(DINESH KUMAR)
ACMM (EAST)/KKD/12.10.2020

IN THE COURT OF A.C.M.M. -EAST KKD DELHI
FIR No. 269/2020
PS New Ashok Nagar
State Vs Manoj Kumar
12.10.2020

Bail bonds verification.

Present: None.

Verification report is received. Address remained unverified. Bail bond/surety bond is rejected.

Perusal of the record shows that the bail bond of the accused was accepted till 16.07.2020 by the Ld. Duty MM. The accused did not appear thereafter. In view of rejection of the surety bonds, issue NBW against accused through IO/ SHO concerned for 28.10.2020.

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(DINESH KUMAR)
ACMM (EAST)/KKD/12.10.2020

IN THE COURT OF A.C.M.M. -EAST KKD DELHI
FIR No. 272/2020
PS New Ashok Nagar
State Vs Thakur Prasad
12.10.2020

**File taken up today on an application for releasing of DL
moved on behalf of applicant Thakur Prasad.**

Present: Ld. Substitute APP for the State.

None for the applicant despite repeated calls given.

Put up on 13.10.2020.

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(DINESH KUMAR)
ACMM (EAST)/KKD/12.10.2020

IN THE COURT OF A.C.M.M. -EAST KKD DELHI
FIR No. 331/2016
PS Preet Vihar
State Vs Sajid
12.10.2020

**An application for cancellation of endorsement on FDR
moved on behalf of surety/applicant Ms. Vakila Begum.**

Present: Ld. Substitute APP for the State.

Surety Vakaila Begum in person.

Ahlmad is reported that file is not traceable. Time is
sought. Let file be traced and put up on 14.10.2020.

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ACMM (EAST)/KKD/12.10.2020

IN THE COURT OF A.C.M.M. -EAST KKD DELHI

**FIR No. 0137/2020
PS New Ashok Nagar
State Vs Pawan Kumar
12.10.2020**

Fresh charge-sheet u/s 173 Cr.P.C. is filed. It be checked and registered.

Present: Ld. substitute APP for the State.

Accused is stated to be on police bail.

IO in person.

I have perused the charge-sheet and material available on record. There is sufficient material on record to prima facie show commission of offence mentioned in the final report.

Accordingly, I take cognizance of the offence.

Accused is tried summarily.

Vide STR entry no. 43/2020 of even date, the accusation is explained to the accused. He wants to plead guilty. He is warned of the consequences of pleading guilty. He still wants to plead guilty. His plea is recorded in the STR. In view of his pleading guilty, the accused stands convicted for offence punishable u/s 188 IPC.

Heard on sentence.

Considering the facts and circumstances of the case, the convict is sentenced to pay fine of Rs.100/-, IDSI two days. Fine paid.

Bail bond cancelled. Surety discharged. Endorsement if any stands cancelled. Document be released to the rightful claimant as per rules.

File be consigned to record room.

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ACMM (EAST)/KKD/12.10.2020**

IN THE COURT OF ACMM-EAST KKD DELHI

FIR No: 104/2020

PS Crime Branch

State Vs. Chirag Juneja

u/s 307/341/397/412/419/420/120-B/34 IPC & 25/27 Arms Act.

12.10.2020

A bail application of accused under Section 437 Cr.P.C.

Present: Ld. substitute APP for the State.
Sh. Arun Kumar Sheoran, Ld. counsel for accused/
applicant.
SI Ashish Kumar from Crime Branch.
Accused is stated to be in J/C.
Reply has already been filed.

Further arguments heard.

It has been argued by Ld. Counsel for accused/applicant that the applicant/accused is an innocent person. As per law the charge-sheet must have been filed by the IO within a period of 60 days from the date of arrest of the applicant/accused. However charge-sheet was not filed within the said period. Hence the accused/applicant is entitled to bail u/s 167(ii) Cr.P.C. Hence it is prayed that the applicant may be granted bail as per law.

Learned APP has opposed the application. It has been argued that the allegations against the accused prima facie discloses commission of offences punishable, inter-alia, U/s 307/341/397/412/419/420/120-B/34 IPC & 25/27 Arms Act. Section 307, 412 and 395 provides punishment of life imprisonment. Hence the statutory period to file the challan is 90 days and not 60 days. Hence it is prayed that the application is not maintainable and it may be dismissed.

In rebuttal, ld. Counsel for the applicant/accused would argue that the material on record does not disclose commission of

offence falling in part (ii) of section 307 of IPC. Further section 395 IPC had not been added by the IO in the challan. Also Section 412 IPC is not made out in the present case. In any case none of these offences provides punishment of life imprisonment and minimum sentence of ten years and therefore the charge-sheet must have been filed within a period of 60 days. Ld. Counsel has relied upon the judgment of Hon'ble Supreme Court of India in Rakesh Kumar Paul Vs. State of Assam, SLA (criminal) no. 2176/2017 decided on 16.08.2017.

I have heard the rival submissions and perused the material available on record.

Perusal of the record would show that in the FIR itself it is mentioned that at the time of stealing the property from the possession of the complainant/victim there were seven and eight persons who had committed the offence on gun point. Thus, the prima facie offence punishable under section 395 IPC is made out which provides punishment for life. Further it is also mentioned in the FIR itself that when the son of the complainant had tried to stop the accused and his associates by standing in front of their car, they had tried to kill him by hitting with the car. He had suffered injury. Thus, ingredients of section 307 part (2) are also prima facie made out which provides punishment of life imprisonment. Further it is also prima facie shown that part of the property which was transferred by the commission of dacoity was recovered from the possession of the accused. Hence prima facie offence punishable under section 412 IPC is also made out which provides punishment of life imprisonment.

The judgment relied upon by the ld. Counsel for accused does not support the contentions made by him. In para 30 of the said judgment Hon'ble Supreme Court has held that section 167 (2) (a) (i)

will be applicable in cases where the accused is charged with (i) offences punishable with death and any lower sentence; (ii) offences punishable with life imprisonment and any lower sentence and (iii) offences punishable with minimum sentence of 10 years. The Hon'ble Supreme Court has held that section 167 (2) (a) (ii) will be applicable in cases where the minimum sentence is less than 10 years but maximum sentence is not death or life imprisonment.

In the present case, as discussed hereinabove, the accused is suspected of committing offences punishable with life imprisonment and therefore the statutory period to file the charge-sheet is 90 days. The application is therefore not maintainable. It is dismissed and disposed of accordingly.

Ld. counsel for the applicant is directed to file the original bail application along with documents in the court within 2 days from today.

Copy of the order be sent to the Jail Superintendent concerned for necessary compliance, if any and to supply a copy of the order to the accused.

Copy be given dasti to the ld. counsel for applicant/accused and order be uploaded on the server.

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(DINESH KUMAR)
ACMM (EAST)/KKD/12.10.2020

IN THE COURT OF A.C.M.M. -EAST KKD DELHI

CC no. 52534/2016

Sushma Arora vs. Sanjay Gupta & Ors.

PS Kalyan Puri

12.10.2020

An application for release of amount of compensation moved on behalf of the complainant is marked to this court by ld. CMM (East), Delhi. The present matter has been taken up today through physical hearing according to the Office Order no. 417/RG/DHC/2020 dated the Delhi, 27.08.2020, issued by Hon'ble High Court of Delhi and Order no. 5576-94/JUDL.BR./East/KKD/Delhi dated 29.08.2020 as well as Order no. 5357-5377/JUDL.BR./East/KKD/ Delhi dated 28.09.2020 issued by Ld. Distt. & Sessions Judge, East, Karkardooma Courts, Delhi.

Present: Ld. Subs. APP for the State.

Applicant/victim Sushma Arora in person with ld. Counsel Sh. Gaurav Vashisht.

The case file is also put up before me with application.

Heard on application.

Ld. Counsel submits that the court of ld. CMM (East) while convicting the accused persons had awarded a compensation of Rs. 80,000/- to the applicant/victim to be paid out of the total fine amount imposed upon the convicts. The convicts had preferred an appeal against the said judgment and order on sentence. The said appeal was also disposed of by ld.

ASJ. Now, the present application has been moved praying for releasing the amount of compensation.

Perusal of the record would show that vide judgment dated 06.06.2019, Ms. Shivali Sharma, ld. CMM (East) had convicted all eight accused persons. Vide order on sentence dated 20.07.2019, the convicts were sentenced to various sentences of imprisonment and of fine. Out of the total fine amount, Rs. 80,000/- were directed to be given to the complainant as compensation.

One order dated 14.02.2020 passed by Sh. Dr. Satender Kr. Gautam, ld. ASJ-03, East in Crl. Appeal no. 130/2019 is available on record, which is on the appeal of the convicts. Vide the said judgment/order, ld. ASJ had modified the order on sentence and imposed sentence of imprisonment till rising of the court and a fine of Rs. 51,000/- on each accused separately for the offences they were convicted.

Ld. Counsel submits that at the time of hearing on appeal, the convicts had deposited the fine amount imposed by ld. CMM (East) and hence, the amount can be released to the applicant/victim.

There is nothing on record to show that the convicts had approached the Hon'ble High Court against the said order of ld. ASJ or not.

Notice be issued to SHO, PS Kalyan Puri to verify from the convicts persons, whether they have approached the Hon'ble High Court of Delhi against the judgment of the Id. ASJ or not. This order of verification is made considering the prevalent circumstances due to Covid-19 Pandemic. SHO shall file the report on next date of hearing.

Be listed for filing of report and consideration on application on 22.10.2020.

(DINESH KUMAR)
ACMM (EAST)/KKD/12.10.2020

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