

FIR No.103 19
PS Laxmi Nagar
State vs. Unknown
19.10.2020

In view of the directions contained in the Office Order No.26/DHC/2020 Dated 30.07.2020 of the Hon'ble High Court of Delhi and office order no. 5506-75/D&SJ (East)/KKD/Delhi dated 29.08.2020 of Ld. District & Sessions Judge, East, the abovesaid matter is taken up for hearing through video conferencing using the App Cisco WebEx.

Present: Sh. Nishi Kant Pandey, Ld. Counsel for applicant (through video conferencing).

Copy of the death certificate of the deceased/registered owner Rajender Prashad Gupta filed. Same is taken on record.

Adjournment sought for filing affidavit in compliance of last orders.

Heard.

Be listed on 21.10.2020.


(RENU CHAUDHARY)
MM-04/East/KKD/Delhi/19/10.2020

Ratan Lal Vs. Rajeev Sharma
U/s 138 NI Act
PS Shakarpur

19.10.2020

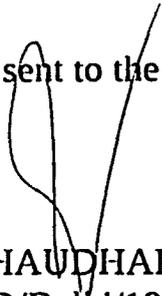
In view of the directions contained in the Office Order No.26/DHC/2020 Dated 30.07.2020 of the Hon'ble High Court of Delhi and office order no. 5566-75/D&SJ (East)/KKD/Delhi dated 29.08.2020 of Ld. District & Sessions Judge, East, the abovesaid matter is taken up for hearing through video conferencing using the App Cisco WebEx.

Present: Sh. Shitize Rao, Ld. Counsel for applicant (through video conferencing).

As per the information received from the Reader, the notice of the present application was not sent to the accused.

Let the notice of the present application be sent to the accused.

Be listed on 26.10.2020.


(RENU CHAUDHARY)
MM-04/East/KKD/Delhi/19.10.2020

FIR No.456/17
PS Shakarpur
Prashant Dogra Vs. Pacific Construction Pvt. Ltd.
19.10.2020

In view of the directions contained in the Office Order No.26/DHC/2020 Dated 30.07.2020 of the Hon'ble High Court of Delhi and office order no. 5566-75/D&SJ (East)/KKD/Delhi dated 29.08.2020 of Ld. District & Sessions Judge, East, the abovesaid matter is taken up for hearing through video conferencing using the App Cisco WebEx.

Present: Sh. Abhishek Chhabra, Ld. Counsel for complainant (through video conferencing).

This is an application moved on behalf of the complainant seeking early hearing of the matter.

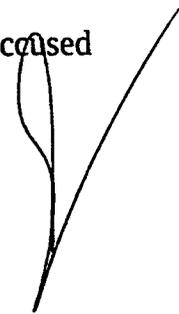
It is stated that a settlement agreement dated 13.01.2019 was entered into between the complainant and the accused persons vide which the accused (s) undertook to pay the outstanding amount of Rs.33,82,440/- to the complainant towards full and final settlement and issued 11 PDCs. Thereafter, the Predecessor granted bail to the accused (s) on the condition that the accused (s) shall make timely payments of the settled amount to the complainant but the PDCs issued by the accused (s) got dishonoured.

Hence, the present application is moved praying that the matter be taken up at the earliest.

It is submitted that the total amount of Rs. 12,50,000/- (approximately) is still outstanding.

Today, none is present on behalf of accused.

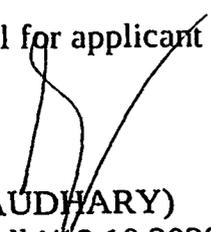
In view of the COVID-19 pandemic and the directions of the Hon'ble High Court of Delhi, no adverse order is passed against the accused



and an opportunity is given to the accused to make the payment in compliance of the settlement agreement dated 13.01.2019.

Application is disposed of accordingly.

Copy of this order be also sent to Ld. Counsel for applicant through e-mail.


(RENU CHAUDHARY)
MM-04/East/KKD/Delhi/19.10.2020

FIR No.282/20
PS Laxmi Nagar
Applicant: Karim @ Rahul
19.10.2020

In view of the directions contained in the Office Order No.26/DHC/2020 Dated 30.07.2020 of the Hon'ble High Court of Delhi and office order no. 5566-75/D&SJ (East)/KKD/Delhi dated 29.08.2020 of Ld. District & Sessions Judge, East, the abovesaid matter is taken up for hearing through video conferencing using the App Cisco WebEx.

Present: Ld. APP for the State (through video conferencing).
Sh. Pankaj Bhushan, Ld. Counsel for accused (through video conferencing).

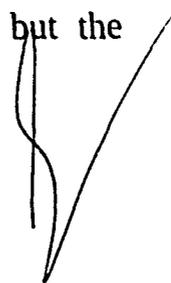
Vide this order, I shall dispose of the application moved by accused Karim @ Rahul seeking bail.

Reply filed by the IO. Same is perused.

Arguments on the bail application heard on behalf of both the parties.

It is submitted by Ld. Counsel for the accused that accused has been falsely implicated in the present case and he is in JC since 11.06.2020. It is further submitted that investigation is complete and charge-sheet has already been filed and that accused is ready to abide by all terms and condition to be imposed upon him, if he is granted bail.

On the other hand, Ld. APP for the state strongly opposed the bail application submitting that accused was arrested at the spot and he is a habitual offender. As per the report of IO, the accused was previously involved in various heinous offences and had been in jail for 08 years. Thereafter, he was released and sent to his country Bangladesh but the



accused again managed to enter into India illegally. It is further submitted that accused may threaten the complainant and that he may tamper or hamper the evidence and jump the bail.

The court is mindful of the fact that as a general rule it is a bail not the jail which is the right of the accused. However, the right of the accused must be balanced with the general interest of the society and the fairness of investigation and the possibility of the witness tempering with the evidence. The apprehension of threat to witnesses and the possibility of the accused fleeing the process of law, are factors which cannot be ignored.

In view of the facts that allegations against the applicant/accused are grave & serious and considering his previous involvement in several criminal activities and previous conduct, therefore, there is every likelihood that the accused may temper with the prosecution's evidence if released on bail and the possibility of accused fleeing from the process of law cannot be ruled out.

Hence, I do not find any merit in the present application of the applicant/accused. Accordingly, the present bail application of the applicant/accused Karim @ Rahul is hereby **dismissed**.

Application is disposed of accordingly.

Copy of this order be also sent to Ld. Counsel for applicant through e-mail.

(RENU CHAUDHARY)
MM-04/East/KKD/Delhi/19.10.2020

E. FIR No.0154/20
PS YDM
Applicant: IMLA
19.10.2020

In view of the directions contained in the Office Order No.26/DHC/2020 Dated 30.07.2020 of the Hon'ble High Court of Delhi and office order no. 5566-75/D&SJ (East)/KKD/Delhi dated 29.08.2020 of Ld. District & Sessions Judge, East, the abovesaid matter is taken up for hearing through video conferencing using the App Cisco WebEx.

Present: Ld. APP for the State (through video conferencing).
Sh. Ram Kumar Sharma, Ld. Counsel for accused (through video conferencing).

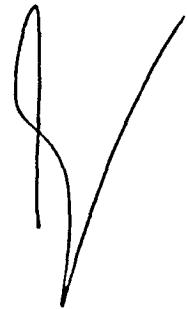
Vide this order, I shall dispose of the application moved by accused Imla seeking bail.

Reply filed by the IO. Same is perused.

Arguments on the bail application heard on behalf of both the parties.

It is submitted by Ld. Counsel for the accused that accused has been falsely implicated in the present case and she is in JC since 17.10.2020. It is further stated that accused is ready to abide by all terms and condition to be imposed upon her, if she is granted bail.

On the other hand, Ld. APP for the state strongly opposed the bail application submitting that the investigation is at initial stages and accused is involved in several other criminal activities. It is further submitted that accused may threaten the complainant and that he may tamper or hamper the evidence and jump the bail.



The court is mindful of the fact that as a general rule it is a bail not the jail which is the right of the accused. However, the right of the accused must be balanced with the general interest of the society and the fairness of investigation and the possibility of the witness tempering with the evidence. The apprehension of threat to witnesses and the possibility of the accused fleeing the process of law, are factors which cannot be ignored.

In the case in hand, the allegations against the applicant/accused are grave and serious and the investigation is at initial stages, therefore, there is every likelihood that the accused may temper with the prosecution's evidence if released on bail and the possibility of accused fleeing from the process of law cannot be ruled out. Hence, I do not find any merit in the present application of the applicant/accused. Accordingly, the present bail application of the applicant/accused Imla is hereby **dismissed**.

Application is disposed of accordingly.

Copy of this order be also sent to Ld. Counsel for applicant through e-mail.

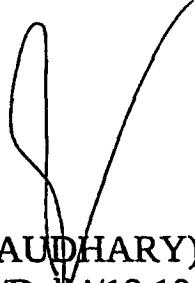
(RENU CHAUDHARY)
MM-04/East/KKD/Delhi/19.10.2020

FIR No.0013 20
PS YDM
19.10.2020

In view of the directions contained in the Office Order No.26/DHC/2020 Dated 30.07.2020 of the Hon'ble High Court of Delhi and office order no. 5566-75/D&SJ (East)/KKD/Delhi dated 29.08.2020 of Ld. District & Sessions Judge, East, the abovesaid matter is taken up for hearing through video conferencing using the App Cisco WebEx.

Present: None.

Be listed on 26.10.2020.


(RENU CHAUDHARY)
MM-04/East/KKD/Delhi/19.10.2020

FIR No.02/20

PS YDM

Applicant: Dinesh Kumar

19.10.2020

In view of the directions contained in the Office Order No.26/DHC/2020 Dated 30.07.2020 of the Hon'ble High Court of Delhi and office order no. 5566-75/D&SJ (East)/KKD/Delhi dated 29.08.2020 of Ld. District & Sessions Judge, East, the abovesaid matter is taken up for hearing through video conferencing using the App Cisco WebEx.

Present: Ld. APP for the State (through video conferencing).
Sh. Rahul Srivastva, Ld. Counsel for accused (through video conferencing).
Sh. Praveen Mahajan, Ld. Counsel for complainant (through video conferencing).

Vide this order, I shall dispose of the application moved by accused Dinesh Kumar seeking bail.

Reply filed by the IO. Same is perused.

Arguments on the bail application heard on behalf of both the parties.

It is submitted by Ld. Counsel for the accused that accused has been falsely implicated in the present case as he has nothing to do with the transactions alleged in the present case. It is stated that the accused is only an additional director in M/s Indio Marketing Pvt. Ltd and not a share-holder therein and was responsible only for the promotion of the company. It is stated that the accused was inducted in the company to do sales pitching on behalf of the company and was not involved in day-to-day affairs of the company or had no powers regarding the company's accounts.

Ld. Counsel for the accused further argued that the accused has no concern with the payments of Rs. 66 lakhs allegedly received by M/s Indio Marketing Pvt. Ltd and its Directors in alleged connivance with the employees of

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the complainant company on the basis of fake invoices cleared by them by committing forgery.

It is further submitted that out of the above-said amount of Rs. 66 lakhs, an amount of more than Rs. 30 lakhs has gone to Rakesh Kumar Sirohi (accused no. 1 in the FIR) and Arjun Bisht who are both employees of M/s Hitachi Air Conditioning India Ltd (complainant company) as the accused was never involved in the process of issuance of the invoices for or on behalf of the M/s Indio Marketing Pvt. Ltd and the same was under the control of Bhupal Singh and Ved Prakash Singh (promoters) who has not even been named in the present FIR.

Hence, it is prayed that the present application of accused be allowed and accused may be admitted to bail as he is ready to abide by all terms and conditions to be imposed upon him as he is in JC since 10.10.2020.

On the other hand, the application has been opposed by Ld. APP for the state assisted by Ld. Counsel for complainant stating that the allegations against the accused are grave and serious. It is submitted that the accused/applicant alongwith other accused persons have hatched criminal conspiracy with the employees of complainant company and committed fraud to the tune of Rs. 66 lakhs. It is further submitted that investigation of the case is still at nascent stages and hence the applicant may hamper the same and tamper with the prosecution evidence.

I have given thoughtful consideration to the facts and circumstances of the case and carefully perused the records in the light of the submissions made before me.

The allegations against the applicant/accused are serious in nature. Section 437, Cr.P.C. inter-alia provides power to a magistrate to grant bail to an accused of commission of a non bailable offence. It provides that such an accused may be released on bail if there does not appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life.

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In the present case, however, there is sufficient material to show prima facie that the accused is guilty of an offence punishable under Section 467 IPC which provides punishment of life imprisonment. Hon'ble High Court of Delhi *in Court on its own motion Vs. Stat criminal reference no. 1/2018, decided on 13.11.2018 ((2018) 254 DLT 641 (DB))* has held that in the case where the Court of Magistrate has reason to believe that the accused has committed an offence where the punishment is either the capital punishment, or imprisonment for life, the Magistrate cannot grant bail to such an accused. The Hon'ble High Court of Delhi *in Court of its own motion Vs. State, criminal reference no. 1/2017 dt. 24.10.2017* also has held that a magistrate can grant bail under Section 437 (1) Cr.P.C. subject to the proviso therein in such clause (i) or (ii). Thus, it has been held by the Hon'ble High Court that in cases where the punishment for an offence is death or life imprisonment, a magistrate cannot grant bail to an accused. Therefore, I am of the opinion that this Court cannot grant bail to the accused. Hence the bail application of accused is dismissed as not maintainable before this court.

Application is disposed of accordingly.

Copy of this order be also sent to Ld. Counsel for applicant through e-mail.

(RENU CHAUDHARY)
MM-04/East/KKD/Delhi/19.10.2020