

FIR No.02/20  
PS YDM  
Applicant: Arjun Singh Bisht  
20.10.2020

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. Pritam Singh, Ld. Counsel for accused (through video conferencing).  
Sh. Praveen Mahajan, Ld. Counsel for complainant (through video conferencing).  
IO/ASI Virender (through video conferencing).

Vide this order, I shall dispose of the application moved by accused Arjun Singh Bisht 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 has been in JC since 11.10.2020. It is further stated that applicant has no concern with the transactions alleged in the present case and still he has joined the investigation as directed by the IO.

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 the complainant company on the basis of fake invoices cleared by them by committing forgery. Ld. Counsel for the accused further submitted that the applicant/accused was an employee of the complainant company i.e. Hitachi Air conditioning India Ltd. and left the same in April, 2018 i.e. about two years prior to

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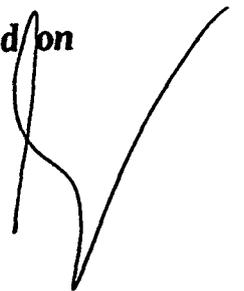
the registration of the present FIR case. It is further stated that the name of the applicant/accused is no where mentioned in the present FIR and there are no specific allegations against him. Hence, it is prayed that the present application of accused be allowed and accused be granted bail as he is ready to abide by all terms and conditions to be imposed by the Court while granting bail.

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 further stated that an amount of Rs.4,32,798/- was transferred in the bank account of the applicant/accused from M/s Indio Marketing Pvt. Ltd. It is further stated that applicant played active role in the transactions pertaining to the present case. 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.

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. State 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/20.10.2020

FIR No.02/20

PS YDM

**Applicant: Rakesh Kumar Sirohi**

20.10.2020

**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. Vineet Panwar, Ld. Counsel for accused (through video conferencing).  
Sh. Praveen Mahajan, Ld. Counsel for complainant (through video conferencing).  
IO/ASI Virender (through video conferencing).

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

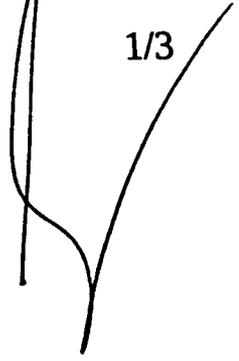
Reply filed by the IO. Same is perused.

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 has been in JC since 11.10.2020. It is further stated that applicant has no concern with the transactions alleged in the present case and still he has joined the investigation as directed by the IO.

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 the complainant company on the basis of fake invoices cleared by them by committing forgery. Ld. Counsel for the accused further submitted that the applicant/accused has clean antecedents and is the only earning member of his

1/3



family. Hence, it is prayed that the present application of accused be allowed and accused be granted bail as he is ready to abide by all terms and conditions to be imposed by the Court while granting bail.

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 further stated that the applicant was the accountant of the Hitachi Air Conditioning Ltd. And has accepted the false invoices from M/s Indio Marketing Pvt. Ltd for the services they never provided to their customers and made payment ~~to~~ thereby forging signatures of approving authority. An amount of Rs.2,90,162 was transferred in the bank account of the applicant/accused from M/s Indio Marketing Pvt. Ltd. It is further stated that applicant played active role in the transactions pertaining to the present case

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.

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. State 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/20.10.2020

E. FIR No.044597/19  
PS Laxmi Nagar  
**State Vs. Rahul**  
20.10.2020

**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 present bail application is taken up for hearing through video conferencing using the App Cisco WebEx.**

Present: Ld. APP for the State (through video conferencing).  
Sh. S. K. Tiwari, Ld. Counsel for applicant/accused (through video conferencing).

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

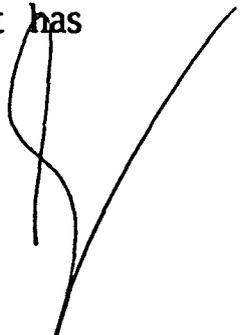
Reply filed by the IO. Same is perused.

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

It is submitted that accused was falsely implicated in the present case and he is in JC since 10.06.2020. It is further submitted that charge-sheet has already been filed and that accused is ready to abide by all terms and conditions 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 may tamper or hamper the evidence and may jump the bail.

Considering the facts that accused is in JC since 10.06.2020 and the investigation has already been completed wherein the charge-sheet has



already been filed, no useful purpose would be served to keep him behind the bar.

Hence, unless required in any other case, accused Rahul is admitted to bail on furnishing personal bond and surety bond in sum of Rs. 20,000/- each subject to the following conditions:

1. That he shall not indulge in commission of any similar or other offence upon his release;
2. That he shall not tamper with the evidence in any manner;
3. That he shall not make any inducement, threat or promise to any witness(es) involved in case;
4. That he shall furnish his complete residential address and intimate the Court if and when there is any change thereto;
5. That he shall appear before the Court/IO if and when called upon.

The application stands disposed of.

Copy of this order be sent to Jail Superintendent concerned and Ld. Counsel for applicant through electronic mode.

( RENU CHAUDHARY )  
MM-04/East/KKD/Delhi/20.10.2020

FIR No.0438/20  
PS Laxmi Nagar  
Applicant: Jitender  
20.10.2020

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. Ashok Upadhyay, Ld. Counsel for accused (through video conferencing).

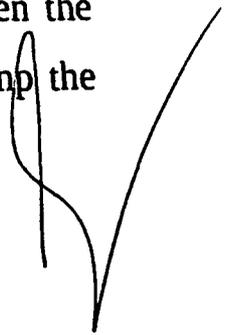
Vide this order, I shall dispose of the application moved by accused Jitender seeking bail.

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 23.09.2020. It is further stated that no recovery was effected from the accused and prayed that bail be granted to the accused as he is a young boy aged 19 years and has clean antecedents. It is further submitted 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 the investigation is at initial stages and allegations are grave and serious. It is further submitted that accused may threaten the complainant and that he may tamper or hamper the evidence and jump the



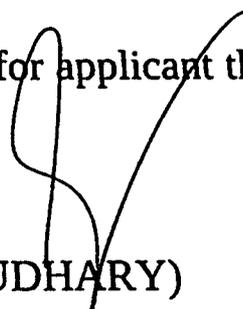
bail.

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 Jitender 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/20.10.2020

FIR No.349/20  
PS Pandav Nagar  
Applicant: Momin  
20.10.2020

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. Virender Singh Panwar, Ld. Counsel for accused (through video conferencing).  
IO/SI Neeraj Kumar (through video conferencing).

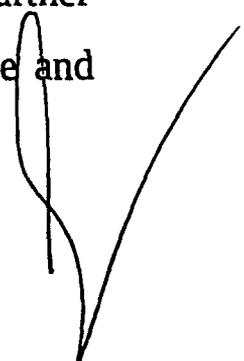
Vide this order, I shall dispose of the application moved by accused Momin seeking bail.

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 30.07.2020. It is further stated that charge-sheet has already been filed and that no recovery was effected from the accused. It is further submitted 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 has previous involvement in several other criminal activities and that TIP was refused by the accused. It is further submitted that accused is a habitual offender and allegations are grave and



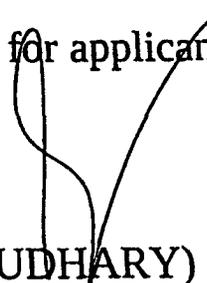
serious. It is further submitted that accused may threaten the complainant and that he may tamper or hamper the evidence and jump the bail.

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 accused has previous involvement in other criminal activities, 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 Momin 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/20.10.2020

FIR No.024745/20  
PS Laxmi Nagar  
Applicant: Sompal Singh  
20.10.2020

**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.**

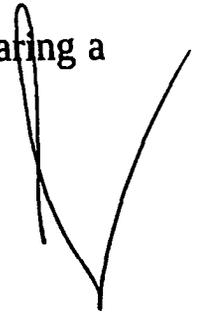
Present: Sh. Kaushalya Sharma, Ld. Counsel for applicant (through video conferencing).

Vide this order, I shall dispose of the application moved by applicant for release of vehicle bearing No. UP-15AN-3376 (TVS Apache) on superdari.

Reply to the application has been filed by the IO. Same is perused. As per the reply, the present FIR case pertains to the PS Laxmi Nagar. However, the applicant has mentioned it as PS Shakarpur. At oral request, the same stands corrected.

Heard on the application for releasing the vehicle i.e. UP-15AN-3376 (TVS Apache) to the applicant/owner. Photocopy of RC of the vehicle and the insurance papers of the vehicle in question in the name of the applicant/owner have been filed. Considering the same, in view of the judgment of **Hon'ble High Court of Delhi titled as "Manjit Singh vs. State in Criminal MC No. 4485/13 dated 10.09.2014** , the said vehicle in question is released to the rightful owner subject to following conditions:-

1. IO is directed to release the vehicle to the rightful owner after preparing a



- detailed panchnama, taking photographs of the vehicle and valuation report.
2. The photographs of the vehicle should be attested and counter signed by the complainant, accused as well as by the person to whom the custody is handed over.
  3. Owner is directed to furnish indemnity bond as per valuation of vehicle bearing no. UP-15AN-3376 (TVS Apache) before IO/SHO concerned.
  4. The investigation officer shall keep on record the permanent address and phone number of the rightful owner, his identity proof and address proof and shall release the vehicle after verifying the ownership of the applicant and insurance of the vehicle.
  5. Owner of the vehicle is further directed to intimate the Court and also to concerned IO, in case he is willing to dispose of the vehicle.
  6. In case of applicant changing his address, he shall inform the IO regarding the same vide a written intimation.
  7. IO is directed to file panchnama and photographs of the vehicle in question alongwith negatives/CD and valuation report with the final report.

Copy of this order be sent to Id. Counsel for applicant through electronic mode.

( RENU CHAUDHARY )  
MM-04/East/KKD/Delhi/20.10.2020

FIR No.394/19  
PS Laxmi Nagar  
State Vs. Rishabh Bahl  
20.10.2020

**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. Amish Aggarwal, Ld. Counsel for applicant (through video conferencing).

This is an application moved on behalf of complainant for issuance of NBW's against the accused.

Heard and perused.

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

Be listed on 05.01.2021.

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

  
( RENU CHAUDHARY)  
MM-04/East/KKD/Delhi/20.10.2020