

22.06.2020

Present : Sh. Deepak Chauhan, Ld. Counsel for complainant (through VC).

Today the matter is listed orders on the application u/s 156 (3) Cr PC.

The facts alleged in the complaint reveals a strong suspicion with respect to commission of a cognizable offence that can only be removed or established by way of thorough investigation by the police. The law is well settled that in case of cognizable offence police is duty bound to register an FIR.

In view of landmark five judges bench judgments of Hon'ble Supreme Court, in case titled **Lalita Kumari v. Govt. of U.P. & Ors. (dated 12<sup>th</sup> Nov, 2013)**, it is a settled principle of law that the police is bound to lodge an FIR, as and when a complaint alleging cognizable offence is made out to police.

Following is the guideline laid down in this case:

- i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

In view of the same, the application of the applicant is allowed and SHO concerned is directed to register the present complaint under appropriate section of law without being influenced by the section mentioned in the complaint and take up the investigation.

It is, however, made clear that this order is no direction to SHO to immediately arrest the accused. The police should first investigate the matter and find out whether actually any offence has been committed or not. The investigating officer may arrest the accused only if the circumstances so warrants. It be seen that there is sufficient material for the arrest of accused persons, as it is a settled law that power to arrest is different from justification to do so. Reference may be made to (**Court on its Motion Vs. CBI Volume 109 (2004) DLT page 494**).

It is also relevant to note that in **Joginder Kumar vs. State of U.P. & Ors. (1994) 4 SCC 260**, Hon'ble Supreme Court has held that arrest cannot be made by police in a routine manner. Some important observations are reproduced as under:-

*“No arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person. It would be prudent for a police officer in the interest of protection of the constitutional rights of a citizen and perhaps in his own interest that no arrest should be made without a reasonable satisfaction reached after some investigation as to the genuineness and bonafides of a complaint and a reasonable belief both as to the persons complicity and even so as to the need to effect arrest. Denying a person of his liberty is a serious matter. The recommendations of the Police Commission merely reflect the constitutional concomitants of the fundamental right to personal liberty and freedom. A person is not liable to arrest merely on the suspicion of complicity in an offence. There must be some reasonable justification in the opinion of the officer effecting the arrest that such arrest is necessary and justified. Except in heinous offences, an arrest must be avoided if a police officer issues notice to person to attend the Station House and not to leave the Station without permission would do.”*

While registration of FIR is mandatory, arrest of the accused immediately on registration of FIR is not at all mandatory. In fact, registration of FIR and arrest of an accused person are two entirely different concepts under the law, and there are several safeguards available against arrest.

With above stated observations SHO concerned is directed to register the present complaint under appropriate section of law. After completion of investigation, the SHO is to file final report or charge sheet under section 173 (2) Cr.P.C as per result of investigation.

It is hereby made clear that police has to conduct the investigation in impartial and fair manner to unearth the truth. **It is further made clear that if allegations found false, appropriate action may be taken against the**

**complainant.**

The FIR be registered immediately and in not more than 3 days from receiving the order. Compliance report shall be filed in a week.

Application stands disposed off.

Copy of this order be also sent to the counsel for the applicant through E-mail / WhatsApp by the Reader / Ahlmad.

Copy of this order be sent to the concerned SHO for compliance by the Naib Court attached with the court today.

In-charge Computer Branch is directed to upload the order on website of the District Courts.

**(Sushil Kumar)**

**MM-3/MM/(NW)/Rohini/22.06.2020**

22.06.2020

**Application taken up through video conferencing for hearing for release of Jama Talashi articles filed by applicant.**

Present : Ld. APP for the State.

Ms. Archana Kumari, Ld. Counsel for applicant (through VC).

This is an application for release of Jama Talashi articles filed by the applicant.

Reply has been filed by the IO through Whatsapp stating that he has no objection in the release of Jama Talashi articles of the applicant/accused. The original reply be filed before the concerned court as and when the courts resume functioning.

Heard. Record perused.

IO is directed to release the Jama Talashi articles to the applicant/accused as per Personal Search Memo against due acknowledgment.

Application stands disposed off.

Copy of this order be also sent to the counsel for the applicant through E-mail / WhatsApp by the Reader / Ahlmad.

Copy of this order be sent to the concerned SHO for compliance by the Naib Court attached with the court today.

In-charge Computer Branch is directed to upload the order on website of the District Courts.

(Sushil Kumar)  
Duty MM, NW, Rohini, 22.06.2020

**e-FIR No. 041734/2019**

**PS : Raj Park**

**State v. Hemant**

**U/s. 411 IPC**

**22.06.2020**

**Bail application taken up through video conferencing for urgent hearing of bail application of accused Hemant.**

Present : Ld. APP for the State.

Sh. Satish Kumar Ld. counsel for applicant through VC.

This is an application seeking bail of the accused/applicant Hemant.

It is submitted that the applicant has been falsely implicated in this case and has nothing to do with the alleged offence. It is further submitted that the applicant is in J/C since 09.06.2020 and is no more required for the further investigation. It is further submitted that the applicant would appear before the court on the date fixed and would not interfere with the investigation in any manner.

Per contra Ld. APP for the State has opposed the bail application of the applicant stating that there are chances that the applicant may jump bail and may commit similar offence in future.

Reply filed through Whatsapp. The original reply be filed before the concerned court as and when the courts resume functioning. IO through his reply has opposed the bail application of the applicant.

Heard. Record perused.

In the present case the case property has already been recovered and the applicant is in J/C since 09.06.2020 and as such evidently he is not required for further investigation.

As such court bail is granted to the accused on furnishing P/B and S/B in the sum of Rs. 5,000/- with one surety of like amount.

P/B and S/B not furnished.

Hence the application stands disposed off.

...Contd2/-

Copy of this order be also sent to the counsel for the applicant through E-mail / WhatsApp by the Reader / Ahlmad.

In-charge Computer Branch is directed to upload the order on website of the District Courts.

**(Sushil Kumar)**  
**MM-3(NW)/Rohini/22.06.2020**

**22.06.2020**

**Application taken up through video conferencing for hearing for release of the Vehicle bearing number DL-4CNA-0428 on Superdari.**

Present : Ld. APP for the State.

Sh.. Ramakant, Ld. Counsel for applicant Manoj Monga (through VC).

The present application for release of vehicle bearing no. **DL-4CNA-0428** has been filed by the applicant Manoj Monga.

Reply from IO HC Puneet Sharma has been received through Whatsapp wherein he has mentioned that the vehicle in question is presently lying in Malkhana PS South Rohini, Delhi and he needs some time to bring the same to PS: North Rohini, Delhi.

Heard. Same is allowed.

Let fresh report regarding the application be called from IO / SHO concerned for tomorrow.

Be put up the application for hearing through Video Conferencing for **23.06.2020.**

Copy of this order be also sent to the counsel for the applicant through E-mail / WhatsApp by the Reader / Ahlmad.

Copy of this order be sent to the concerned SHO for compliance by the Naib Court attached with the court today.

In-charge Computer Branch is directed to upload the order on website of the District Courts.

**(Sushil Kumar)**  
**MM-3(NW)/Rohini/22.06.2020**

**22.06.2020**

**Application taken up through video conferencing for hearing for release of the Vehicle bearing number DL-4SCZ-3218 on Superdari.**

Present : Ld. APP for the State.

Sh. Pankaj Kumar Agrawal, Ld. Counsel for applicant Geeta Devi  
(through VC).

The present application for release of vehicle bearing no. **DL-4SCZ-3218** has been filed by the applicant Geeta Devi.

Reply filed by IO through Whatsapp. The original reply be filed before the concerned court as and when the courts resume functioning. IO through his reply stated that there is no objection if the currency is released to the rightful owner.

Heard.

In view of the judgment of Manjeet Singh vs State, the aforesaid vehicle be released to the registered / rightful owner subject to the following conditions:-

1. Vehicle in question be released to its registered / rightful owner only subject to furnishing of indemnity bond as per the valuation at the cost of the applicant to the satisfaction of the concerned SHO/ IO subject to verification of ownership documents.
2. IO shall prepare detailed panchnama mentioning the colour, appearance, Engine number, Chasis number, ownership and other necessary details of the vehicle.
3. IO shall take the colour photographs of the vehicle from different angles and also of the engine number and the chasis number of the vehicle sufficient to identify the vehicle during the course of trial.
4. The photographs should be attested and counter signed by the complainant, accused and applicant.

.....Contd2/-



Application is disposed off accordingly.

Copy of this order be also sent to the counsel for the applicant through E-mail / WhatsApp by the Reader / Ahlmad.

Copy of this order be sent to the concerned SHO for compliance by the Naib Court Ct. Rajesh attached with the court today.

In-charge Computer Branch is directed to upload the order on website of the District Courts.

**(Sushil Kumar)**

**MM-3(NW)/Rohini/22.06.2020**

**22.06.2020**

**Application taken up through video conferencing for hearing for release of the Vehicle bearing number DL-1CAA-0484 on Superdari.**

Present : Ld. APP for the State.

Sh. K P Jayaram, Ld. Counsel for applicant Suresh Dabra (through VC).

The present application for release of vehicle bearing no. **DL-1CAA-0484** has been filed by the applicant Suresh Dabra.

Reply filed by IO through Whatsapp. The original reply be filed before the concerned court as and when the courts resume functioning. IO through his reply stated that there is no objection if the currency is released to the rightful owner.

Heard.

In view of the judgment of Manjeet Singh vs State, the aforesaid vehicle be released to the registered / rightful owner subject to the following conditions:-

1. Vehicle in question be released to its registered / rightful owner only subject to furnishing of indemnity bond as per the valuation at the cost of the applicant to the satisfaction of the concerned SHO/ IO subject to verification of ownership documents.
2. IO shall prepare detailed panchnama mentioning the colour, appearance, Engine number, Chasis number, ownership and other necessary details of the vehicle.
3. IO shall take the colour photographs of the vehicle from different angles and also of the engine number and the chasis number of the vehicle sufficient to identify the vehicle during the course of trial.
4. The photographs should be attested and counter signed by the complainant, accused and applicant. Application is disposed off accordingly.

....Contd2/-

Copy of this order be also sent to the counsel for the applicant through E-mail / WhatsApp by the Reader / Ahlmad.

Copy of this order be sent to the concerned SHO for compliance by the Naib Court Ct. Rajesh attached with the court today.

In-charge Computer Branch is directed to upload the order on website of the District Courts.

**(Sushil Kumar)**

**MM-3(NW)/Rohini/22.06.2020**

**22.06.2020**

**Application taken up through video conferencing for hearing for release of the Vehicle bearing number DL-1PC-4142 on Superdari.**

Present : Ld. APP for the State.

Sh. Rishab Gulati, Ld. Counsel for applicant Surender Kumar (through VC).

The present application for release of vehicle bearing no. **DL-1PC-4142** has been filed by the applicant Surender Kumar.

Reply filed by IO through Whatsapp. The original reply be filed before the concerned court as and when the courts resume functioning.

Heard.

Perusal of the record shows that vehicle in question is registered in the name of M/s. A B Grain Spirits Pvt Ltd and the applicant Mr. Surender Kumar has been authorized through Board Resolution dated 15.01.2018 to get the vehicle release on Superdaari.

Reply filed by the IO also reveals that Section 338 IPC has been added during the investigation of the present case. IO has objected to the application on the ground the registered owner of the vehicle in question has not joined the investigation despite notice.

In view of the judgment of Manjeet Singh vs State, the aforesaid vehicle be released to the registered / rightful owner subject to the following conditions:-

1. Vehicle in question be released to its registered / rightful owner only subject to furnishing of indemnity bond as per the valuation at the cost of the applicant to the satisfaction of the concerned SHO/ IO subject to verification of ownership documents.

....Contd2/-

2. IO shall prepare detailed panchnama mentioning the colour, appearance, Engine number, Chasis number, ownership and other necessary details of the vehicle.

3. IO shall take the colour photographs of the vehicle from different angles and also of the engine number and the chasis number of the vehicle sufficient to identify the vehicle during the course of trial.

4. The photographs should be attested and counter signed by the complainant, accused and applicant. Application is disposed off accordingly.

**5. Registered owner of the vehicle in question is directed to join the investigation today itself.**

Copy of this order be also sent to the counsel for the applicant through E-mail / WhatsApp by the Reader / Ahlmad.

Copy of this order be sent to the concerned SHO for compliance by the Naib Court Ct. Rajesh attached with the court today.

In-charge Computer Branch is directed to upload the order on website of the District Courts.

**(Sushil Kumar)**

**MM-3(NW)/Rohini/22.06.2020**