

IN THE COURT OF ACMM -EAST KKD DELHI

State vs. Mohd. Imran @ Kalu

FIR No: 198/2018

PS Preet Vihar

03.10.2020

An application seeking report from the Jail Superintendent is received on the E-mail ID of the court. The said application has been taken up today through Video Conference 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: Sh. Ramesh, Ld. APP for the State through VC.

Sh. Sanjeev Kumar, ld. counsel for the applicant.

A report is received from the Jail Superintendent concerned.

Copy be supplied to the ld. counsel for the applicant.

The application stands disposed of.

Record be tagged with the main challan as and when filed.

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KUMAR**

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**(DINESH KUMAR)
ACMM (EAST)/KKD/03.10.2020**

IN THE COURT OF ACMM -EAST KKD DELHI

CC no. 753/19

FIR No: 183/2019

PS New Ashok Nagar

03.10.2020

An application for seeking further directions/status report is received on the E-mail ID of the court. The said application has been taken up today through Video Conference 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: Sh. Ramesh, Ld. APP for the State through VC.

Sh. Vikrant Arora, ld. counsel for the applicant.

HC R.B. Tomar from PS New Ashok Nagar.

Status report is received from the IO.

It is reported in the report by the IO that he has recently joined his duties at the PS New Ashok Nagar. He seeks some time to file investigation report.

Let the investigation be filed in the court on 09.12.2020.

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(DINESH KUMAR)
ACMM (EAST)/KKD/03.10.2020

IN THE COURT OF ACMM -EAST KKD DELHI

**State vs. Vinod
DD u/s 41 Cr.P.C
PS Preet Vihar**

03.10.2020

A bail application under Section 437 Cr.P.C received on the E-mail ID of the court. Bail application has been taken up today through Video Conference 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. APP for the State through VC.

Ms. Saraswati Bhardwaj, ld. counsel for the
applicant/accused through VC.

HC Manoj from PS Preet Vihar.

Proceedings are conducted through VC.

Submissions on bail application heard.

HC Manoj from PS Preet Vihar submits that accused was arrested by police official of PS Preet Vihar as a stolen motorcycle, which was case property of E-FIR no. 024734/2020, PS Krishna Nagar, was also recovered from his possession. Thereafter, the accused was arrested by the IO of the said FIR.

In these circumstances, it is shown that the custody of the accused is not required in any matter of PS Preet Vihar. The

application is therefore not maintainable and is disposed of as dismissed.

Copy of this order be given dasti as requested.

Copy be sent to the ld. counsel for applicant on his E-mail and order be uploaded on the server.

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

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Date: 2020.10.03 **ACMM (EAST)/KKD/03.10.2020**
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IN THE COURT OF ACMM -EAST KKD DELHI

State vs. Sachin Kumar @ Lala

FIR No: 556/2019

PS Kalyan Puri

U/s 323/328/354/354-A/376 (2) (n)/506/34 IPC

03.10.2020

This bail application under Section 437 Cr.P.C is marked to this court by Id. CMM (East). The present application has been taken up today through Video Conference 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: Sh. Ramesh Bajiya, Ld. APP for the State through VC.

Sh. R.N. Singh, ld. counsel for the applicant/accused.

The accused is stated to be in JC.

Proceedings are conducted through VC.

Digital copy of the charge sheet has been received.

Ld. counsel for the applicant/accused would argue that applicant/accused is innocent and he has been falsely implicated in the matter and he is in custody since 15.01.2020. The complainant is the real sister-in-law (bhabhi) of the applicant/accused and she has made false allegations against him. There is a delay of around 8 years in making the complaint and no reason has been provided

for the said delay. Further, ld. counsel would argue that applicant/accused had made a complaint that he had apprehension that complainant would falsely implicate him as she had threatened him to do so. Charge sheet has already been filed. No purpose would be served by keeping the applicant/accused behind bars. The applicant is ready to furnish sound surety. Hence, it is prayed that applicant may be released on bail.

Ld. APP has opposed the bail application. It has been argued, inter alia, that the allegations against the applicant/accused are serious in nature. As per the allegations leveled by the victim, prima facie an offence punishable u/s 376 (2) (n) IPC is made out, which is a Sessions triable offence and provides punishment of life imprisonment. Hence, this court does not have jurisdiction to hear the applicant/accused on bail and it is prayed that bail application may be dismissed.

I have heard the submissions and perused the record

The allegations against the applicant/accused as above-mentioned are serious in nature. The victim has made specific allegations against the applicant/accused in her complaint. On the basis of the material available in the chargesheet, prima facie, an offence punishable u/s 376 (2) (n) IPC is made out, which provides punishment of life imprisonment. Section 437, Cr.P.C. provides power inter-alia, of a magistrate to grant bail to an accused of commission of a nonailable 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 376 (2)(n), 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 cases 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 on 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 sub 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 and disposed of accordingly.


Copy be sent to the Id. Defence counsel on his E-mail and order be uploaded on the server.

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

The original record and proceedings be sent back to the Court of Ld. CMM East.

(DINESH KUMAR)
ACMM (EAST)/KKD/03.10.2020

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IN THE COURT OF ACMM -EAST KKD DELHI

State vs. Ankush
FIR No: 118/2020
PS New Ashok Nagar
U/s 25/54/59 Arms Act

03.10.2020

A bail application under Section 437 Cr.P.C. is received from the Jail through Jail Superintendent concerned. This application is received on the E-mail ID of the court. The present application has been taken up today through Video Conference 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: Sh. Ramesh Bajiya, Id. APP for the State through VC.

Sh. Charan Singh, Id. LAC for the applicant/accused.

HC R.B. Tomar from PS New Ashok Nagar.

Proceedings are conducted through VC.

Heard.

Perusal of the record would show that vide order dated 23.03.2020, accused Ankush was granted bail by this court in the above-mentioned FIR and he was directed to be released on bail on furnishing bail bond in the sum of Rs. 10,000/- with one surety in the like amount.

HC R.B. Tomar has informed that accused had been released in the present case after surety bond was furnished by his surety. However, later on, the accused surrendered in the present case and his surety had withdrawn himself as the surety of the accused. Thereafter, he was taken in custody and was sent to J.C and since then,

he is in J.C.

In these circumstances, it is shown that bail order dated 23.03.2020 is still effective as it has not been canceled by Court. The accused is in custody in the present case as his surety was withdrawn. Present bail application of the applicant/accused is therefore, not maintainable. It is dismissed and disposed of accordingly.

However, it is clarified that accused Ankush be released from custody in the present case on furnishing fresh bail bond/surety bond in a sum of Rs. 10,000/- with one surety in the like amount, as mentioned in the bail order dated 23.03.2020.

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 sent to the Id. LAC on his E-mail and order be uploaded on the server.

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

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(DINESH KUMAR)
ACMM (EAST)/KKD/03.10.2020

IN THE COURT OF ACMM -EAST KKD DELHI

State vs. Amar Singh @ Shera

FIR No: 01524/2019

PS New Ashok Nagar

U/s 379/411/34 IPC

03.10.2020

A bail application under Section 437 Cr.P.C received on the E-mail ID of the court. Bail application has been taken up today through Video Conference 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. APP for the State through VC.

Sh. Nishi Kant Ray, ld. counsel for the applicant/accused through VC.

HC R.B. Tomar from PS New Ashok Nagar.

Proceedings are conducted through VC.

Accused is stated to be in JC.

Submissions on bail application heard.

Reply of IO perused.

It is stated by learned counsel for accused/applicant through VC that the accused has been falsely implicated in the present case and he is in custody since 19.08.2020. It has been argued that the investigation in the matter 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 and the alleged recovery has been planted upon the accused. 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 19.08.2020. 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 period of custody, circumstances of case, nature of offence in question, the age of the accused/applicant, and his non involvement in criminal cases, accused/applicant **Amar Singh** 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 his 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. If he is found indulge in similar such type of offences in future, State shall be at liberty to move an application for cancellation of his 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 sent to the ld. counsel for applicant on his E-mail and order be uploaded on the server.

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

DINESH KUMAR Digitally signed by **DINESH KUMAR** (DINESH KUMAR)
Date: 2020.10.03 15:23:30 +05'30' **ACMM (EAST)/KKD/03.10.2020**