

12.01.2022

VIRTUAL HEARING

In light of the office Order No. 896/RG/DHC/2021 dated 30.12.2021 of Hon'ble High Court of Delhi and Circular No. 42221-471/ Mis/Admn./CentralTHC/2021 dated 31.12.2021 and Officer order No.F2(1)/Admn./NW/RC/2022/46122 of Ld. Principal District & Sessions Judge, NorthWest District, Rohini Courts, Delhi the matter is taken up for hearing through virtual mode.

Present : Ld. APP for the State through Video Conferencing.
Ld. Counsel for applicant/accused through VC

This is an application for permission to release the applicant / accused on bail on behalf of applicant /accused Saddam Hussain.

Report filed by IO. Copy supplied. Submissions heard.

The Ld. Counsel for the Applicant/Accused has stated that in light of the decision of Hon'ble Delhi HC in *Nitin Nagpal v. State*, 2006 (90) DRJ 745, the accused is entitled to be released on bail.

Perusal of the material on record shows the matter is pending for cognisance on account of clarifications which were to be taken from IO in light of decision of Apex Court in *UOI v. Ashok Kumar Sharma and ORs*. S.L.P.(CRIMINAL)No.4178 of 2019).

A perusal of the ratio of *Nitin Nagpal* (supra) makes it apparently clear that in cases where the cognisance of a case has not been taken, the detention of the accused cannot be authorised under sections 209 CrPC or 309 CrPC since the same would be invoked only when the cognisance has been taken and matter has proceeded for trial.

In the present case, as stated above, the cognisance is yet to be taken on account on the reasons mentioned above. Therefore, in light of the submissions made and the fact that the accused has remained in custody for a larger period of time, the present application is allowed. Accused Saddam Hussain is directed to be released on bail subject to his furnishing personal bond and surety bond in the sum of Rs. 25,000/each and subject to the following conditions that:

1. The accused shall join the further investigation as and when directed by the IO.
2. The accused shall attend the trial without default.

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FIR No.180/2021
State Vs. Saddam Hussain
PS : Crime Branch
U/s : 420/274/275/34 IPC r/w 18/27 Drugs and Cosmetics Act.

- 3. The accused shall not tamper with the evidence,**
- 4. The accused shall not make any inducement, threat or promise to any of the witnesses,**
- 5. The accused shall not involve himself in any offence of similar nature, and**
- 6. In case the accused will change his address, then he will inform the court about the same within 01 week.**

Accused is directed to furnish the details as per Annexure B in compliance of decision of Hon'ble Delhi High Court in Sunil Tyagi v State In CrI. M.C 5328/2013 and CrI. M.C 4438/2013 dated 28th June, 2021.

With these directions, application stands disposed of.

Copy of this order be sent to the Ld. counsel for the applicant through Email/WhatsApp by the Reader / Ahlmad.

Incharge Computer Branch is directed to upload the order on website of the District Courts.

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(Pritu Raj)
MM-01/North-West/ Delhi
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