

JUDICIARY

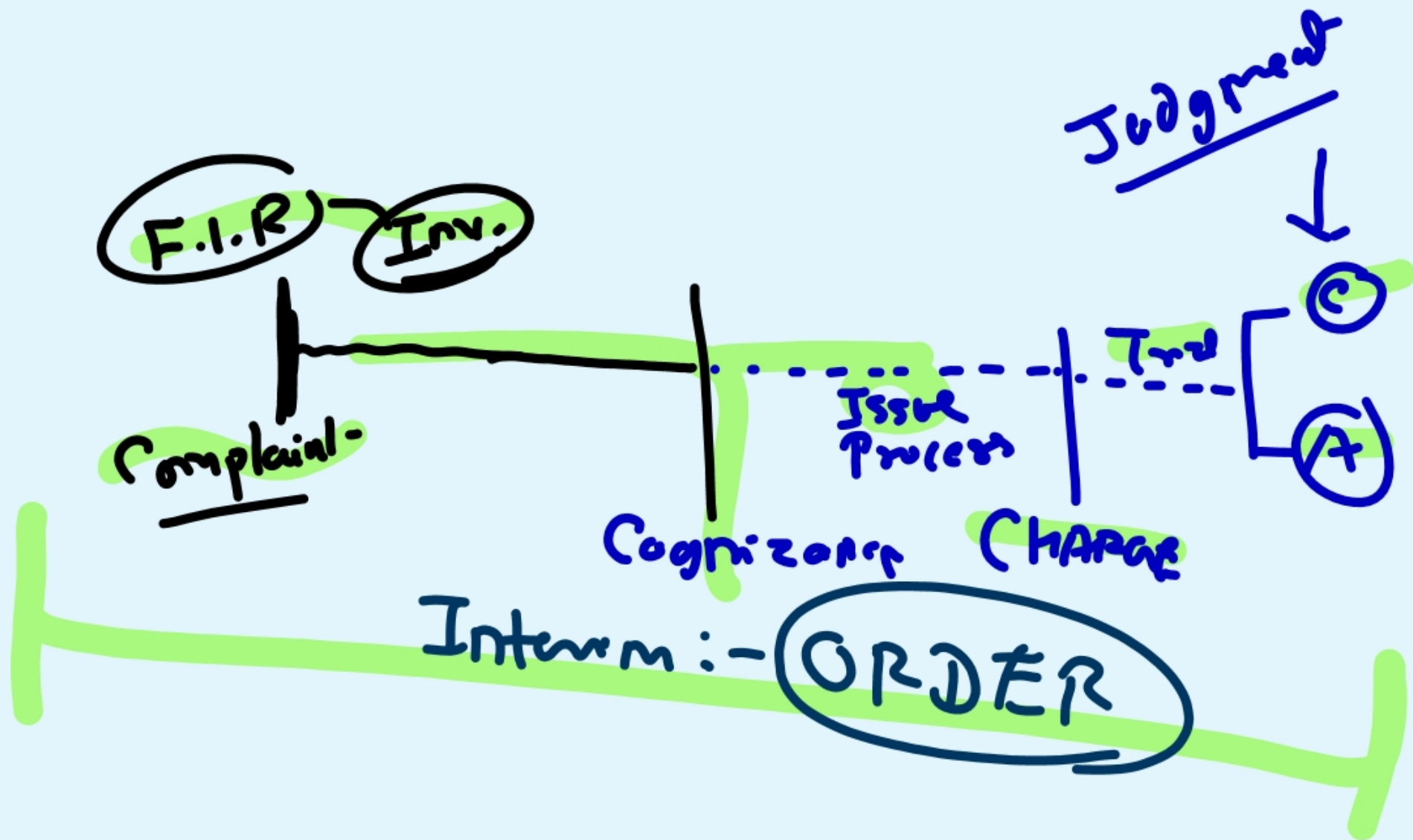
ALL INDIA JUDICIARY

Tansukh Paliwal (Linking Sir)



CRIMINAL ORDER WRITING





[ORDER WRITINGS]

Q. Sumit has been charged under section 356 and 379 of the IPC for snatching chain of a woman. He has been in judicial custody and the recovery has been made based on his confession. He moves a bail application. Dispose his Bail application with an order.

State v. Sumit Kumar

Title

Present : Sh. ABC... APP for State

Sh. XYZ ... Advocate for accused/applicant.

Accused in Judicial Custody.

Date – 10/07/2017

This Order of mine finally disposes Bail Application of accused, Sumit Kumar, in FIR No. 123 of 2017. He has been charged under section 356 and 379 of the IPC for allegedly snatching chain of a woman. He has been in judicial custody. Based on his confession a discovery of the gold chain has been made. Accused made a bail application. Reply to bail application filed.

Accused/Applicant

3 { The Learned APP has argued that Sumit is at flight risk and there is another case pending against hm. This makes him a threat to society and his bail application should be rejected.

2 { The defence counsel has argued that accused has been cooperative in investigation and discovery already made. He has family and roots in the village. He also argues that the other case is only pending against him and he has not been implicated in it.

+ { Heard the arguments of both sides. This court is of the considered opinion that no further purpose will be served by keeping the accused in custody. It has been held by the Hon'ble Supreme Court in State of U.P. through CBI v. Amarmani Tripathi 2005 (8) SCC 21 that benefit of the society has to weighed against accused's liberty. In this case the accused has family, business and property in the village He is not at flight risk. The chain has already been recovered in discovery. This court is of the considered opinion that no benefit will come of keeping the accused in further custody.

Accused is ordered to be released on furnishing bail bond of ₹15,000 with one surety of like amount,

Sd

Date

Place

JMIC

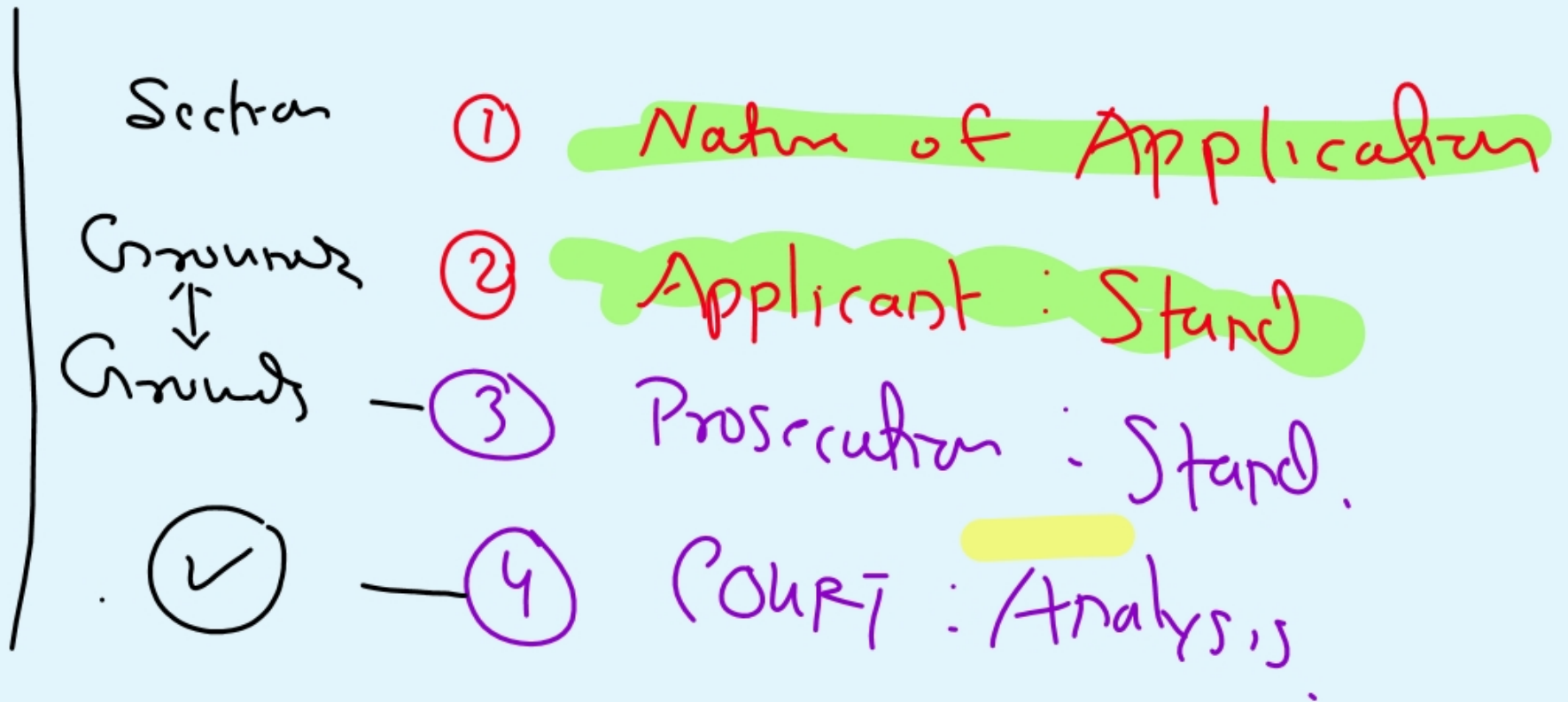
S. 437-

A. - -

D.

Court

First Information Report being CR No. I 302/2017 for the offence punishable under Sections 406, 417, 420, 467, 468, 471, 477 and 114 of the IPC, is registered with Dedyapada Rural Police Station on 9.3.2017, against the applicant-accused Chimanbhai Vasava and five others. The applicant-accused Chimanbhai has been arrested by the Investing Officer on 17.3.2017 at 11.00 am and then produced before the Ld. Magistrate, Dedyapada on 18.3.2017 at 10.30 am. At the time of production, the accused himself made complaint against the Investigating Officer about ill-treatment. An application for bail has also been submitted by the accused Chimanbhai through Ld. Advocate Mr. Tamakuwala stating that there is no prima facie case, investigation qua the applicant is almost completed, he is the permanent resident of Dedyapada and he possesses immovable properties within the jurisdiction of the Court. Mr. Afinwala Assistant Public Prosecutor has strongly raised objections against the bail application submitting that the co-accused persons are absconding, investigation is going on, muddamal articles are still to be recovered, alleged offences are serious in nature, there is possibility of tampering with the evidence and as the applicant-accused also possesses Passport, there are chances of fleeing from justice therefore, discretion should not be exercised in favour of the applicant-accused.



Considerations for Grant of Bail

Broadly speaking the Court or the police officer, while considering grant of bail in case of non-bailable offences, should refer to the following circumstances :—

1. the nature of accusation or charge; ^{3/12/14}
2. the nature and character of evidence in support of the charge; ^{2/1/12-24}
3. the severity of sentence which conviction will entail; ^{4/2/12}
4. the possibility of the accused of fleeing or absconding on his release on bail;
5. the apprehension of witnesses being tampered with or bribed or threatened;
6. the protracted nature of the trial;
7. personal antecedents and conduct of the accused including his health, age, sex, family background, social status etc.;
8. the circumstances under which the offence has been committed;
9. the larger interest of public safety or state security and past conduct of the accused.⁴

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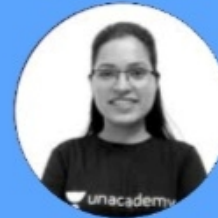
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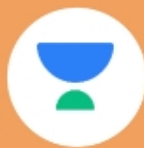
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