

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Crl. Bail Appln: No.S-973 of 2017.

Sikandar.Applicant.

Versus.

IIIrd Additional Sessions Judge
Hyderabad and another.Respondents.

Mr. Sajjad Ahmed Chandio, Advocate for the Applicant.

Ms. Ramishan Oad, APG.

Mr. Mahmood Alam Abbasi, Advocate for the complainant.

Date of hearing and order 20.06.2018.

O R D E R

IRSHAD ALI SHAH, J. It is alleged that the applicant with rest of the culprits in furtherance of their intention, not only committed Qatl-e-Amd of Zulfiquar but fired and injured complainant Muhammad Hayat with intention to commit his murder, for that he was booked and challaned in the present case.

2. In first instance, applicant sought for his release on bail on merit by making such application. It was dismissed. Subsequently, applicant sought his release on bail on point of delay in conclusion of trial by filing such application. It was also dismissed by the learned trial Court. The applicant now by way of instant application has sought for his release on bail from this Court solely on point of delay in conclusion of trial by making the instant bail application under section 497 Cr.P.C.

3. It is contended by the learned counsel for the applicant that the applicant is in continuous custody for more than two years, yet his case has not been concluded by the prosecution, as such he is entitled to be

released on bail as a matter of right. In support of his contention, he relied upon the cases of **Muhammad Ehsan v. The State (2017 PCr.LJ 1250)**, (2) **Shabeer v. The State (2012 SCMR 354)** and (3) **Adnan Prince v. The State through P.G., Punjab and another (PLD 2017 SC 147)**).

4. It is contended by the learned counsel for the complainant that the delay in trial is not attributed to the prosecution, as the R&P of the case on conviction of the co-accused Rustam and Sheraz was called by this Court. After return of the R&P, the prosecution has been able to examine its material witnesses and the case against the applicant is at the verge of conclusion, despite the fact that the applicant has defeated the conclusion of the trial by seeking adjournments for about 38 times. By contending so, he sought for the dismissal of the instant bail application. In support of his contention, he relied upon the cases of **Sher Ali alias Sheri v. The State (1998 SCMR 190)**, (2) **Babar Hussain v. The State (2016 SCMR 1538)** and the case diaries of the learned trial Court.

5. In rebuttal to above, it is contended by the learned counsel for the applicant that the adjournments were sought for by the applicant after his two years' detention.

6. Learned APG has opposed to grant of bail to the applicant by contending that he is hardened and desperate criminal, as he after committing the incident preferred to go in absconsion for years to come, which he has not been able to explain plausibly.

7. I have heard learned counsel for the parties and perused the record.

8. Admittedly, the applicant after commission of incident went into absconsion of noticeable period spreading over six years and such absconsion he has not been able to explain plausibly. In that context it is rightly being contended by the learned APG that the applicant is hardened and desperate criminal. Co-accused Rustam and Sheraz have already been convicted by the learned trial Court. The case against the applicant is at the verge of its final disposal and its disposal at present is being defeated by the applicant himself by seeking adjournments for one or other ground. In these circumstances, the applicant is not found entitled to be released on bail on point of delay in conclusion of trial.

9. The case law, which is relied upon by the learned counsel for the applicant is on distinguishable facts and circumstances. In case of **Ehsan** (Suprta), the accused was admitted to bail on point of delay in conclusion of trial. It was case relating to money laundering. In that case accused neither remained in absconsion nor defeated the conclusion of trial. In the instant case, the applicant has remained in absconsion for noticeable period spreading over six years and now he is found to be defeating the conclusion of trial by seeking adjournment(s). In case of **Shabeer** (Supra), accused was admitted to bail on point of delay in conclusion of trial, as there was no possibility of conclusion of the trial. In the instant matter, the trial is at the verge of its conclusion and it is the applicant who is not allowing it to be concluded by seeking adjournments. In the case of **Adnan Prince** (Supra), accused was

admitted to bail on account of inordinate delay in conclusion of the trial. In the instant case, the applicant has been found to be defeating the conclusion of the trial by seeking adjournment(s).

10. In view of above while relying upon the case law referred by the learned counsel for the complainant, the instant application for release of the applicant on bail on the point of delay in conclusion of trial, is dismissed.

J U D G E

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