

HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD

Cr. Bail Application No.S-1400 of 2022
[Atta Muhammad versus The State]

DATE	ORDER WITH SIGNATURE OF JUDGE
Applicant	: Through Mr. Muhammad Hassan Chang advocate
The State	: Through Ms. Safa Hisbani Assistant P.G Sindh a/w IO/ASI Muhammad Haneef of PS Badin
Date of hearing:	06.02.2023
Date of decision:	06.02.2023

KAUSAR SULTANA HUSSAIN, J: Through captioned bail application, applicant seeks post-arrest bail in Crime No.186 of 2022 registered at P.S Badin for offences punishable u/s 398 & 401 PPC. Same plea was raised by him before learned trial Court, however, it was turned down vide Order dated 21.12.2022.

2. The facts of the matter are sufficiently been disclosed in the memo of bail application, therefore, same are not being mentioned here for the sake of brevity and in order to avoid repetition. However, the allegation against the applicant/accused is that he is nominated accused of Crime No.181 of 2022 and on 03.06.2022 he alongwith co-accused persons, duly armed, was present at Nido Bypass with intention to commit offence and when the CIA police, headed by Complainant SIP Bakhshan Khan reached over there on spy information, the present accused alongwith another co-accused escaped away from the scene, while two co-accused persons were arrested at the spot alongwith weapons, while the present accused was arrested later on.

3. It is, inter alia, contended by learned Counsel for the applicant that the applicant is innocent and has been falsely implicated in this case by the police; that the prosecution story is false, fabricated, and highly unbelievable and that no recovery has been effected from the possession of applicant/accused. He prayed that applicant may be admitted to bail.

4. Learned Assistant Prosecutor General Sindh vehemently opposed the bail application and contends that applicant is nominated in FIR with specific role; that since the present accused on seeing the police party escaped away from the place of incident, as such question of recovery at the spot does not arise at all and

that applicant accused is habitual criminal and another FIR bearing No.181 of 2022 is also registered against him. She prayed for dismissal of bail application.

5. I have considered submissions of parties and perused the material available on record.

6. The applicant/accused is nominated in FIR with specific role. Besides present FIR applicant/accused is also nominated in another FIR bearing No.181 of 2022 and no enmity has been alleged by the applicant/accused against the Complainant for his alleged false implication in present crime as well as aforesaid Crime. As far as recovery is concerned, since per FIR, accused on seeing the police party had escaped away from the place of incident, therefore, question of recovery at the spot does not arise at all. During course of argument learned APG informed that Complainant has been examined and only two prosecution witnesses remain to be examined.

7. In view of the above, applicant/accused has failed to make out his case one of the further inquiry. Resultantly instant bail applicant is **dismissed**. However, learned trial Court is directed to expedite the trial and conclude it within one month from today. Show cause notice issued against I.O of the case in pursuance of Order dated 27.01.2023 is hereby vacated.

8. Needless to mention here that the observations made hereinabove are tentative in nature and the Trial Court shall not be influenced by this Order in any manner whatsoever while deciding the case of applicant.

JUDGE

Sajjad Ali Jessar