

ORDER SHEET
HIGH COURT OF SINDH AT KARACHI
Crl. Bail Appl. No.753 of 2024.

Date

Order with signature of Judges

For hearing of Bail Application.

18.09.2024.

Mr. Raza Hussain, Advocate along with Applicant
Mr. Aimal Kanshi Khan, Advocate for the Complainant
Mr. Muhammad Iqbal Awan, Addl. Prosecutor General
ASI Masood Ali, PS Sachal Karachi (East).

Mohammad Karim Khan Agha, J:- Applicant Danish Mustafa was booked in FIR No.460/2023 under Section 380/34 PPC registered at PS Sachal, Karachi. He applied for pre arrest bail before Court of 1st Additional Sessions Judge Malir Karachi which was declined vide order dated 25.03.2024. Hence the applicant approached this Court for pre arrest bail.

2. Brief facts of the case as per FIR are that the complainant was residing in his house along with applicant/son. According to the complainant 10-totla gold ornaments and Rs.65000/- cash initially stolen form him and later 08-total gold again stolen from his house. In the FIR it appears that he has nominated his son on the basis that he also used to come in the house of complainant. Hence the aforesaid FIR was lodged against the present applicant.

3. I have heard learned counsel for the applicant, learned counsel for the complainant and learned Addl. Prosecutor General Sindh.

4. The maximum sentence available for the offence under which the applicant has been charged is 07 years imprisonment and the general rule is that bail should be granted in such like cases unless exceptional circumstances exist. There is no exceptional circumstance existing in this case in order to decline the bail. There is no eye witness to the applicant stealing any of the alleged gold or gold ornaments and he has only named in the

FIR because he is son of the complainant and has access to the house. The complainant has claimed that the stolen items/jewelry have been recovered from the wife of applicant and hence he is guilty of the offence. On the other hand learned counsel for the applicant states that the jewelry items which were recovered are the dowry articles of his wife. Charge has already been framed and the applicant is no longer required for further investigation.

5. Based on the dispute regarding the ownership of gold/golden ornaments I find this is a case of further inquiry, I hereby confirm the pre-arrest bail granted earlier on 01.04.2024 to the applicant **Danish Mustafa s/o Ghulam Mustafa** on the same terms and conditions.

6. It is made clear that this order is only after a tentative assessment of the evidence available on record and would have no bearing on the trial of the applicant which shall be decided by the concerned trial Court within 03 months of the date of this order and no adjournment on any flimsy ground shall be allowed. In the event if the applicant misuses the concession of bail, the complainant shall be free to approach relevant forum for cancellation of his bail. Copy of this order shall be sent to Xth Judicial Magistrate Malir Karachi for compliance.

7. The instant criminal bail application stands disposed of in the above terms.

JUDGE

MAK/PS