

ORDER SHEET
HIGH COURT OF SINDH AT KARACHI
Cr. Bail Appln. No.1624 of 2016

DATE

ORDER WITH SIGNATURE(S) OF JUDGE(S)

Present:

Mr.Justice Muhammad Ali Mazhar

Mr.Justice Adnan-ul-Karim Memon

Mohammad Saleem.....v/s.....The State

26-12-2016

M/s.Naveed Moin Faruqi and Mohammad Jawaid,
Advocates for the Applicant.

Muhammad Iqbal Awan, APG.

Muhammad Ali Mazhar, J. The applicant has applied for post arrest bail in FIR No.193/2016, lodged at P.S. Al-Falah, Karachi, under Section 324, 353, 427, 34 read with Section 7 A.T.A. The complainant ASI Abdul Kabeer lodged the FIR on 23.6.2016 that he was busy in patrolling with his subordinate staff in Government Vehicle No.SP-394-A. When they reached in the area of Bagh-e-Malir they saw two persons coming on motorcycle and on seeing the police party they tried to turn back, but their motorcycle was slipped and they fallen down. One person started firing on the police party with the intention to kill them. The complainant also made firing in self defence, due to which one culprit received bullet injury. Police apprehended the persons who disclosed their names as Nasir Hussain and the name of co-accused was Mohammad Saleem (present applicant). Police recovered one 30 bore pistol from Nasir Hussain along with magazine and two mobile phones, while from the pocket of present applicant two mobile phones were recovered along with cash in the sum of Rs.150/-. Nasir Husain failed to produce license of the recovered weapon

and the documents of motorcycle. The injured accused was shifted to Jinnah Hospital. The police also secured three empties of 30 bore and four empties of SMG from the place of incident. It was further revealed that the motorcycle of accused was also involved in the Crime No.114/2016. The bail applied in the trial court was rejected on 5.11.2016. The learned trial court in its order observed that no incriminating article was recovered from the possession of the present applicant, but it was further observed that he played active role in the commission of offence.

2. The learned counsel for the applicant argued that there is no reasonable ground to believe that the applicant is involved in the offence. No name of private Mashir is mentioned in the FIR nor name of any witness. He further argued that no incriminating material or article was recovered from the possession of the applicant and the police also violated the Section 103 Cr.P.C., which makes it mandatory for them to make recovery in presence of witnesses. No mobile number nor the denomination of currency notes are mentioned.

3. The learned APG on the basis of available material and the investigation conducted by the I.O. argued that no incriminating material is available right now against the present applicant and his case requires further inquiry, therefore, he has no objection for the grant of bail.

4. We have also gone through the material available on record and we are also of the tentative view that whether the present applicant was involved in the offence or not it requires further inquiry. Even no allegation has been

leveled that he was engaged in any encounter nor any weapon was recovered from him nor any specific role has been assigned to him.

5. As a result of above discussion, the applicant is granted bail in the sum of Rs.100,000/- (Rupees one hundred thousand only) with P.R. Bond in the like amount to satisfaction of the trial court. The above findings are tentative in nature and shall not prejudice the case of either party. Bail application is disposed of.

Judge

Judge

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