

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Khadim Hussain M. Shaikh
Mr. Justice Amjad Ali Sahito

Criminal Bail Application No.760 of 2018

Applicant : Muhammad Salman s/o Abdul Rasheed through Mr. Abdul Malik Raja, Advocate.

State : Through Mr. Ali Haider Salim, Deputy Prosecutor General, Sindh alongwith Ms. Aneela, APG and Inspector Ali Haider from PS NKIA Karachi.

Date of Hearing : 10.07.2018

Date of Order : 10.07.2018

ORDER

AMJAD ALI SAHITO, J -- Through the instant bail application, the applicant/accused Muhammad Salman S/o Abdul Rasheed seeks post-arrest bail in Crime No.86/2018 registered at Police Station North Karachi Industrial Area, Karachi Central, for the offence under sections 384, 385 PPC read with Section 7 of the Anti-Terrorism Act, 1998 registered at Police Station North Karachi Industrial Area, Karachi.

2. The brief facts of the prosecution case, as depicted in the FIR, are that the complainant is running a bakery in the name and style of "Madina Bakery" and on 16.03.2018 at about 05:00 P.M. he received a chit of extortion through a boy, on which it was written that he was required to put a sum of Rs.1,00,000/- in a black shopping bag and keep the same at the corner of the

street near the pole. It was further mentioned that in case he would disclose about the said fact or failed to keep the abovementioned bhatta amount at the required place, then his daughter would be killed at 12:00 sharp and his wife would be abducted. It was further mentioned in the said piece of paper that this was not a joke and the complainant should take it seriously. After sometime, the complainant received a phone call on his mobile bearing No.0317-2146491, whereby he was threatened continuously and due to the above act his family was badly terrorized. Under these circumstances, now the complainant has come for report and legal action may be taken. Thereafter, the investigation was handed over to the SIO of PS. Copy of the FIR will be distributed accordingly.

3. Learned counsel for the applicant/accused has mainly argued that actually the applicant/accused was arrested from his house on 19.3.2018 by the rangers and thereafter, was handed over to the police, who involved him in the commission of crime; the applicant/accused is innocent and has been falsely implicated in the case; that nothing any incriminating articles was recovered from the possession of the applicant/accused; that there is no reasonable ground to believe that the applicant/accused has committed the alleged offence, but there is sufficient scope of further inquiry into his guilt; that no specific role has been attributed to the present applicant/accused; that no opinion of the handwriting expert was obtained by the prosecutions, which creates highly doubt to the prosecution's

case; that the applicant/accused is not a previous convict nor hardened and desperate criminal. He lastly prayed for grant of bail.

4. Conversely, learned D.P.G. for the State has contended that the applicant/accused was caught red handed along with main accused, when they had called the complainant for payment of bhatta amount; that the SIM number from which the main accused had been called the complainant and demanded bhatta was also recovered from the possession of co-accused at the time of arrest of both the accused persons, which reasonably connect the applicant/accused with the commission of offence. He lastly prayed that the applicant/accused is not entitled for the grant of bail.

5. We have heard the learned counsel for the applicant/accused, learned DPG for the State and examined the material available on record.

6. It is an admitted fact that at the time of arrest nothing was recovered from the possession of the applicant/accused and if any recovery of mobile or mobile SIM bearing No.0317-2146491 was recovered from the possession of co-accused Muhammad Ashraf. Past record shows that neither the applicant/accused was involved in any criminal case nor was convicted for any offence. The applicant/accused is in a jail, he is no more required for further investigation. It will be seen by the trial Court with regard to the participation of an accused in the crime

or about the guilt / probability of the prosecution's case and the evidence proposed to be produced in support of the charge, the accused should not be deprived of benefit of bail. In such a situation, it would be better to keep an accused person on bail than in jail, during the trial.

7. From the tentative assessment and material available on the record, we hold that the case against the applicant/accused, *prima facie*, requires further inquiry as contemplated under Section 497 (2), Cr. P.C. and consequently instant bail application was allowed vide our short order dated 10.07.2018, whereby the applicant/accused was granted bail subject to his furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Lac only) and P.R. bond in the like amount to the satisfaction of the learned trial Court, in case based on FIR No.86/2018 under sections 384, 385, PPC read with Section 7 of ATA, 1997 registered at Police Station NKIA, Karachi.

8. The observations made supra are tentative in nature and the learned trial Court shall decide the case strictly on merits.

9. These are the reasons of the said short order dated 10.07.2018.

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