

IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

Mr. Justice Aftab Ahmad Gorar

Mr. Justice Amjad Ali Sahito

CrI. Bail Application No.1500 of 2018

Applicants : (1) Shoaib Ahmed, (2) Ikram &
(3) Atif Hussain through
Mr. Muhammad Kashif, Advocate.

Respondent : The State through
Mr. Abrar Ali Khichi, Addl. Prosecutor
General, Sindh.

Complainant : Mst. Rubina Shaheen present in person.

Date of Hearing : 28.01.2019

Date of decision : 28.01.2019

ORDER

AMJAD ALI SAHITO, J :- Through this instant bail application, the applicants/accused above-named seek post-arrest bail in Crime No.142/2018 registered at Police Station Methadar, Karachi for offence under Sections 384, 385/34 PPC read with Section 25-D of the Telegraph Act, whereby the bail plea of the applicants was declined by the learned Judge, Anti-Terrorism Court No.II at Karachi vide order dated 30.10.2018.

2. Precisely, the relevant facts leading to disposal of the instant bail application are that the complainant Rubina Shaheen has lodged the instant FIR on 27.7.2018 at about 1613 hours; stating therein that she does the work of clearing and forwarding along with her brother Muhammad Shahbaz Awan in Room No.1204 and 1205 on 12th Floor, Chappal Plaza, Hasrat Mohani Road and on 29.5.2018 a phone call had come from cell numbers 0340-0261431, 0316-2981196 and 0341-2180500 on her brother's cell number 0300-

2550725 in her presence to give Rs.15 lacs as extortion money and on non-payment they were threatened for dire consequences of the life. The complainant had contacted CPLC and found out that their driver Muhammad Zohaib S/o Umar Khan and his relatives Saleem Ahmed S/o Ameer Ahmed and Waqar S/o Abdul Shakoor are involved in demanding the extortion money, ultimately complainant appeared at the police station and lodged the FIR.

3. The applicants/accused were arrested and subsequently remanded in the judicial custody, the final report was submitted before the trial Court. The applicants/accused had moved bail application before the learned trial Court i.e. Anti-Terrorism Court No.II Karachi, which was dismissed vide order dated 30.10.2018, hence they have impugned the aforesaid order before this Court.

4. Learned counsel for the applicants/accused, *inter-alia*, contended that the applicants/accused are innocent and have falsely been implicated in this case by the police; that the alleged incident had taken place on 29.5.2018 to 14.6.2018, whereas the FIR was registered on 27.7.2018 after unexplained delay of one month and 13 days, which makes the prosecution story highly doubtful and requires further inquiry; that the names of the applicants/accused do not transpire in the body of FIR, which also makes the case of prosecution doubtful; that the learned trial Court has failed to appreciate the arguments of the applicants/accused's counsel, as the applicants/accused produced solid evidence in their defence, but the learned trial Court did not consider the same and passed the impugned order, which is based on surmises and conjuncture, hence the impugned order is liable to be set aside; that there is no specific role has been attributed to the present applicants/accused

connecting them with the commission of offence; that the alleged offence does not fall within the ambit of section 497 Cr.P.C.; that the applicants/accused are closed relative of the co-accused whose names were given in the body of FIR, whereas, the main accused Muhammad Zohaib S/o Umer Khan was the driver of complainant, therefore, the complainant has booked the present applicants/accused with malafide intention and ulterior motives. He lastly prayed for the grant of bail application to the applicants/accused.

5. Conversely, learned Additional Prosecutor General, Sindh appearing for the State has opposed the grant of bail to the applicants/accused by contending that all the applicants/accused were having the common intention and involved in extortion of money from the complainant party.

6. Complainant Mst. Rubina Shaheen present in person and oppose for grant of bail and submits that the applicants are still issuing threats for murder and pressurizing to her to withdraw from the case.

7. We have heard the learned counsel for the applicants/accused, Complainant and learned Addl. Prosecutor General Sindh and have minutely examined the material available on record.

8. It is an admitted fact that the names of applicants/accused do not transpire in the FIR, as the applicants/accused through mobile have demanded Bhatta/extortion from the complainant, as previously the applicants/accused were not known to the complainant that's why she has not given the names of applicants/accused in the FIR. Furthermore, after the arrest of the

applicant/accused Muhammad Zohaib, police recovered one Nokia mobile phone along with SIM No.0341-2180500 and as per CDR record, the SIM was in the name of applicant/accused Ikram and through that SIM applicants/accused have made a call and demanded Bhatta/extortion from the complainant. The accused persons were also demanding Bhatta from mobile SIM No.0316-2981196, which is in the name of applicant/accused Atif Hussain. On 24.01.2019, the complainant appeared before this Court and filed a statement along with so many documents so also messages sent by the accused persons for demanding Bhatta from her and on non-payment whereof, the complainant was threatened for dire consequences to her life as well as the lives of her family members. Documents produced by the complainant further reflect that she has also moved the application to the Hon'ble Chief Justice of Sindh for protection of her life and property. It is settled principle of law that at bail stage only tentative assessment is to be made, prima face there is sufficient material available on record to connect the applicants/accused with the commission of the alleged offence.

9. Considering the above circumstances, we are of the view that the applicants/accused have failed to make out a case for grant of post-arrest bail and consequently the instant bail application is dismissed.

10. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial while deciding the case of the applicants on merits.

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