

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Application No. 477 of 2020
Nawab Khan S/o Ali Gohar

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For hearing of M.A. No. 3079/2020.
2. For hearing of Bail Application.

10.04.2020.

Mr. S. Gulzar Hussain Sherazi, Advocate for Applicant.
Mr. Syed Meeral Shah, Additional Prosecutor General alongwith I.O ASI
Abdul Qudus Khan P.S. Shah Latif Town.

1. Granted subject to all just exceptions.
2. Through this bail application under Section 497 Cr.P.C., the Applicant seeks post arrest bail in respect of FIR No.181/2020 filed under Section 23(I)-A of the Sindh Arms Act, 2013 at P.S. Shah Latif Town, Karachi, after dismissal of his bail application by the learned trial Court vide Order dated 17.02.2020.
3. I have heard the learned Counsel for the Applicant as well as the learned Additional Prosecutor General. My observations are as under:-

(a). It appears that the learned trial Court while dismissing the bail application has been swayed with registration of another FIR No. 180/2020 (main case) against the present Applicant and two others under Section 381-A/34 PPC. However, it appears to be an admitted position that in that FIR the present Applicant as well as two others have been granted bail by the concerned Judicial Magistrate on 08.02.2020; but apparently the said concession of bail has not been considered by the trial Court in this case. Though this is not a sole ground for considering the present bail application; however, the order of the learned trial Court in this case reflects that primarily the refusal of bail is premised on the second FIR with the observation that the motorcycle was stolen and accusation against the applicant is well founded. Apparently this makes the case of the Applicant of further inquiry.

(b) It further appears that admittedly in the FIR, it has been mentioned that the weapon recovered from the Applicant is having an erased/rubbed number and the same is also a matter of record in the arrest memo as well as the report of forensic laboratory. It is not clear as of today that which weapon was allegedly recovered from the Applicant as the number is missing from the record. At this stage of bail, the Court is always supposed to look into the facts tentatively, and this fact alone that the weapon in question does not bear any number, is a case of further inquiry into the guilt of the accused.

(c) It also appears that the FIR in respect of the main case crime under Section 381 PPC bears No.180/2020, whereas, the FIR number of the present case is 181/2020; both registered at P.S. Shah Latif Town and when FIR No.180/2020 is examined, it appears that the complainant of that FIR approached the Police Station on 02.02.2020, whereas, according to his case, the motorcycle was stolen on 24.01.2020. This registration of two FIRs one after the other with a consecutive number, coupled with the facts that the one relating to the offence under Section 381 PPC is delayed by delay of 9 days, also makes the case of the Applicant of further inquiry.

(d) And finally, the investigation is complete; all witnesses are police officials; case of the applicant is that of further inquiry; hence, withholding the concession of bail as a punishment is unwarranted in the facts and circumstances of this case.

4. In view of hereinabove facts and circumstances of this case, the Applicant has made out a case and is accordingly admitted to post arrest bail on his furnishing solvent surety in the sum of Rs.30,000/- with P.R. Bond in the like amount to the satisfaction of the trial Court. It is needless to state that the observations made hereinabove are tentative in nature and shall not have any effect on the trial which shall proceed in accordance with law.

J U D G E