

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application 557 of 2020

Amanullah

vs.

The State

For the Applicant / Accused : Mr. Muhammad Aslam
Advocate

For the Prosecution / State : Ms. Seema Zaidi
Deputy Prosecutor General

Date of hearing : 08.05.2020

Date of announcement : 08.05.2020

ORDER

Agha Faisal, J. This matter pertains to an alleged armed robbery on the streets of Karachi, in respect whereof the accused were arrested, virtually on the spot, by the Police and recovery of snatched items / amounts was also made therefrom. In such regard F.I.R. 77 of 2020 was registered, an hour after the alleged offence, on 28.01.2020 before P.S. Gulshan-e-Iqbal, Karachi, East, citing offence/s under Section/s 392 and 34 P.P.C.

2. Learned counsel submits that the earlier pleas for bail were rejected by the Court of the Vth Judicial Magistrate Karachi East, in JM Case No. 400 of 2020, and the Court of the Xth Additional Sessions Judge Karachi-East, in Cr. Bail Application 1485 of 2020, respectively, hence, the present proceedings.

3. After considering the submissions of the learned counsel and sifting¹ through the material placed before the court, for and against the applicant, reproduction whereof is eschewed herein², it is observed as follows:

- a. The allegation levelled is that the applicant and two other accused committed armed robbery at Gulshan Chowrangi Karachi and were apprehended, along with weapons and the stolen articles, by the Police while fleeing the scene of the crime.
- b. Learned counsel for the applicant pleaded entitlement to the concession of bail on the premise that the case there against was fabricated and statutory delay, *inter alia* predicated upon the present Covid-19 pandemic.

¹ *Shoaib Mahmood Butt vs. Iftikhar Ul Haq & Others* reported as 1996 SCMR 1845.

² *Chairman NAB vs. Mian Muhammad Nawaz Sharif & Others* reported as PLD 2019 Supreme Court 445; *Muhammad Shakeel vs. The State & Others* reported as PLD 2014 Supreme Court 458.

The Prosecution asserted that the applicant was not eligible for the relief sought as he was named in the F.I.R.; arrested virtually on the spot; recovery of the stolen articles made therefrom; implicated per the statements to the Police, by the Complainant and the accused themselves; additionally also remained implicated in a narcotics case, registered under Section 9(c) of the Control of Narcotic Substances Act 1997. Notice was issued to the Complainant and the Bailiff report dated 30.04.2020 denotes service thereupon.

- c. The F.I.R., registered merely an hour after the alleged occurrence of the offence, nominates the applicant and denotes the recovery of the snatched articles, including a color copy of the national identity card of the Complainant, from the applicant. The statements recorded of the Complainant and the arresting officials corroborate the content of the F.I.R. The Court's attention was solicited to the statements of the accused, including the applicant, which further bulwark the content of the F.I.R. In view of the preponderance of material placed before the Court there is no manifest reason to doubt the F.I.R., for the purposes of addressing this application.
- d. The next contention to address is that of statutory delay. Learned counsel placed no record of the learned trial Court to demonstrate any delay. On the contrary made a bare assertion that trial proceedings were hindered by the prevalent Covid-19 pandemic. Notwithstanding the fact that the averment of the applicant's counsel, regarding the purported delay, was not supported by any document whatsoever, it is considered appropriate to refer to the guidance illumined by the honorable Supreme Court in the *Raja Nadeem case*³, wherein it has been specified that concomitant fears, aggravated by the fast expanding contagion, could not be lead to the law becoming a casualty even in most extreme or adversarial situations, hence, matters related to the regulation of custody during the present exigency had to be determined upon their own independent merit.

Even otherwise the Third Proviso to Section 497(1) Cr.P.C. stipulates that unexceptionable detention *pendente lite* for a period exceeding one year needs to be demonstrated in such matters for consideration of bail on the ground of statutory delay. Admittedly, the alleged offence took place on 28.01.2020 and within four months therefrom invocation of the ground of statutory delay is unmerited at the present time.

4. A tentative⁴ assessment of the material⁵ placed before the court demonstrates the existence of some tangible evidence, which, if left un rebutted, may lead to the inference of guilt⁶ and reasonable grounds have been shown linking the applicant with the cited

³ Per Qazi Muhammad Amin Ahmed J. in yet unreported judgment dated 07.04.2020 *Raja Muhammad Nadeem vs. The State & Others (Criminal Petition 299 of 2020)*.

⁴ *Shahzaman vs. The State* reported as PLD 1994 Supreme Court 65.

⁵ *Asif Ayub vs. The State* reported as 2010 SCMR 1735.

⁶ *Tariq Bashir & Others vs. The State* reported as PLD 1995 Supreme Court 34.

offence/s⁷, punishable with imprisonment of ten years, in respect whereof the law⁸ disapproves of the concession of bail.

5. It is also gleaned that the Prosecution has expressed cogent reasons indicating⁹ the applicant's involvement in the alleged offence/s and the arguments articulated by the applicant's counsel did not qualify the present facts and circumstances to fall within the ambit of further inquiry¹⁰.

6. In view hereof, it is the assessment of this Court that the learned counsel for the applicant has been unable to set forth a fit case for grant of post-arrest bail, hence, the present application is hereby dismissed. It is considered pertinent to record that the observations herein are of tentative nature and shall not influence and / or prejudice the case of either party at trial.

JUDGE

⁷ *Muhammad Imran vs. The State* reported as 2016 SCMR 1401.

⁸ *Section 497(1) Code of Criminal Procedure 1898; Sohail Waqar vs. The State* reported as 2017 SCMR 325.

⁹ *Rehman Ullah vs. The State* reported as 2020 SCMR 357; *Ravida vs. Amjad & Others* reported as 2018 SCMR 28; *Haji Shahid Hussain & Others vs. The State* reported as 2017 SCMR 616.

¹⁰ As enumerated per *Section 497(2) Code of Criminal Procedure 1898; Muhammad Faiz vs. The State* reported as 2015 SCMR 655.