

IN THE HIGH COURT OF SINDH, KARACHI
Cr. Bail Application No. 1932 of 2019

APPLICANT : Waqar alias Bhoora s/o Abdul Sattar
through Mr. Asif Ibrahim Advocate.

RESPONDENT : The State,
through Mr. Abdullah Rajput, D.P.G.

Hearing on : 13.03.2020.

Decided on : 13.03.2020.

ORDER.

ABDUL MOBEEN LAKHO, J.- Being aggrieved and dissatisfied by the impugned order dated 26.12.2018 passed by the learned Illrd Additional District and Sessions Judge, Karachi East in case being crime No. 73/2014, under Section 324/392/34 P.P.C, registered at PS Saudabad, Karachi, whereby the post arrest bail of the present applicant/accused was dismissed, the applicant/ accused has approached this Court for seeking bail.

2. Briefly stated, the facts of the prosecution case are that 20.05.2018 at about 2115 hours A.S.I. Niaz Ahmed returning back from Jinnah Hospital, Ward No.17, Karachi after recording statement under Section-154 Cr.P.C. of Mehmood Khan Urs Ali son of Sarfaraz Khan, by caste Yousufzai who disclosed that on 24.04.2014, while he was going to his house alongwith his friend namely Rehan Qazi on Motorcycle No.KFK-4498. At about 12:30/12:45 A.M. when they reached near Hafiz Sweets S-I Area Street, 4/5 boys on motorcycles came from back side stopped them and snatched licensed Glock-9 mm pistol from his friend Rehan Qazi and also beat them. They were talking about taking them to Faisal Bhai. They took them to Railway Track, near S-I Area, Saudabad, by force, where Faisal Bhai and Mujeeb were present and Waqar alias Bhoora gave them bullet injuries by his pistol and left them in injured condition. Thereafter, police mobile of Saudabad Police Station had come and took them to Jinnah Hospital his friend Rehan Qazi was taken back after bandages whereas he is under treatment on Bed No.40, Ward No.17, Jinnah Hospital. His claim is against above mentioned culprits to give fire arm injuries with the intention to kill and to snatch the above

mentioned licensed pistol. He and his friend will identify the above mentioned culprits, if seen again and he knows Waqar alias Bhoora.

3. Learned counsel for the applicant/accused has contended that there are no reasonable grounds to believe that the Applicant/Accused has committed any offence whatsoever; that the case is false and foisted upon the Applicant/accused; that no weapon has been recovered from the possession or pointation of the Applicant/accused, which creates serious doubt in the matter; that the FIR has been lodged with the delay of Nine Days, without any plausible explanation, whereas the Police Station is Two Kilometer away from the alleged place of incident; that the allegedly incident took place on 24.04.2014 between 0300 to 0045 hours, whereas the injured admitted in the hospital on 24.04.2014 at about 03:35 A.M., which creates serious doubt; that no independent person has been cited as a witness; that the case of the Applicant/accused comes under-Section 497(2) Cr.P.C.; that the Applicant/accused is not previous convict; that the Applicant/ accused is not likely to abscond or temper with prosecution case; that the Applicant/accused is ready and willing to furnish the solvent surety to the Satisfaction of this Honourable Court.

4. Learned DPG flatly opposed for grant of bail to the present applicant/accused on the ground that section 392 PPC is not compoundable. The applicants are involved in an offence which falls within the prohibitory clause of section 497 Cr.P.C. and the offence committed by him is heinous in nature. Hence the bail should be refused, he further submitted that the counsel is suppressing the facts that the applicant under section 164 Cr.P.C. has confessed the crime before the learned Magistrate which is submitted for ready reference.

5. Heard arguments of learned counsel for the parties and perused the material available on record. It is admitted that the applicant confessed to his committing the crime vide statement recorded on 08.12.2018 before the learned Judicial Magistrate XXVII, Karachi East which is reproduced here for ready reference:

Q. What have you to say?

جج صاحب

چوتھا مہینہ، سال ۲۰۱۳ فیصل یونٹ ۱۹۹ انچارج متحدہ قومی مومنٹ نے مجھے کہا کہ ان دو لڑکوں کو لے کے چلو۔ ان لڑکوں نے ڈکیتی کی ہے اور یہ دونوں ڈکیت ہیں اس کے بعد اب دونوں لڑکوں کو ہم ساتھ لیکر گئے اور ریل کی پٹریوں کے پاس کھڑے ہو گئے اور وہ SI سعود آباد کا ایریا ہے فیصل نے مجھے کہا کہ ان لڑکوں کی ٹانگ پر گولی مارو میں نے منع کیا اور کہا کہ ان دونوں کو پولیس کو دو مگر فیصل نے کہا کہ یہ سیکٹر کا آرڈر ہے اور اگر میں نے ایسا نہیں کیا تو میرے ساتھ بھی کچھ ہو سکتا ہے پھر فیصل یونٹ انچارج نے مجھے اپنا ذاتی پینل 30 بورڈ یا اور بولا کہ ان کو گولی مارو پھر میں نے اسی پینل سے ان دونوں لڑکوں میں سے ایک کو گھٹنے پر پینل سے گولی ماری اور دوسرے بندے کو فیصل نے گولی ماری اور وہ پینل بھی فیصل کے پاس ہے پھر ہم لوگ وہاں سے چلے گئے یہ ہی میرا بیان ہے

6. Apparently the recording of the confessional statement by the learned Judicial Magistrate seems that it was recorded after observing all the legal formalities required for recording of a confessional statement under section 164 Cr.P.C. and accused has admitted to his guilt.

7. Hence keeping in mind the above confessional statement recorded by the learned Judicial Magistrate wherein the applicant confessed the crime, therefore, I am not inclined to grant bail, the bail application is dismissed.

8. These are the reasons of my short order dated 13.03.2020.

This Criminal Bail Application stands dismissed in the same terms.

JUDGE