

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
**Cr. Bail Applications No. 100 of 2017**

Applicant : Muhammad Nabeel s/o. Muhammad Shakeel.  
Through Mr. Saba Khan, Advocate.

Respondent : The State, through Mr. Abdullah Rajput, APG.

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Date of hearing: 27.03.2017

Date of order: 27.03.2017

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**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Through instant criminal bail application, applicant/accused Muhammad Nabeel s/o. Muhammad Shakeel seeks post-arrest bail in Crime No. 164 of 2016, registered at PS Gulbahar, Karachi under Section 23(1)A of Sindh Arms Act, 2013. His earlier bail application in Sessions Case No. 988 of 2016 was heard and dismissed by the learned III<sup>rd</sup> Additional Sessions Judge, Karachi-Central, vide order dated 09.12.2016.

2. Briefly stated, the facts of the case are that on 19.10.2016 at about 2145 hours on the pointation of accused Nafees-ur-Rehman s/o. Jahandad Khan, arrested in Crime No. 163/2016 registered at P.S. Gulbahar, Karachi under Section 302/34 PPC, present accused was apprehended at service road near Sindh Sports Complex, Nazimabad No.2, Karachi and from his possession one 30 bore pistol loaded with magazine containing three live bullets was recovered.

3. The learned counsel for the applicant/accused has mainly contended that the accused is innocent and has falsely been implicated in this case; that on 19.10.2016 at 4.45 a.m. the present accused was taken away by the police from his house and nothing was recovered from his possession; that the pistol was allegedly recovered from present accused on 19.10.2016; however, the same was sent for FSL report on 21.10.2016 i.e. after delay of two days; for which no plausible explanation has been furnished; that there is no independent witness of recovery of alleged pistol from accused; as such, presumption of foisting the same cannot be ruled out; that present accused has already been granted bail by this Court in main case bearing Crime No. 163/2016 registered under Section 302/34 P.P.C. at P.S. Gulbahar, Karachi, vide order dated 27.02.2017, while co-accused Mst. Rubina Mazhar and Nafees-ur-Rehamn have been granted bail by the learned trial Court vide orders dated 05.01.2017 and 13.02.2017; as such, the present accused is entitled for the concession of bail in this case too. In support

of his contentions, the learned counsel has placed his reliance on the case of *Ayaz Ali vs. The State (PLD 2014 Sindh 282)*.

4. On the other hand, learned APG has opposed this application on the ground that present accused was arrested on the pointation of co-accused Nafees-ur-Rehman and from his possession an unlicensed pistol containing three live bullets was recovered, which was used in Crime No. 163/2016 registered at P.S. Gulbahar, Karachi under Section 302/34 PPC, in respect of murder of deceased Mazhar Shah; as such, he is not entitled for the concession of bail.

6. I have considered the arguments advanced by the learned counsel for the accused and learned APG as well as perused the material available on record.

7. It appears that the present accused has been implicated in the main case on the basis of statement of co-accused Nafees-ur-Rehman made by him before the police; however, since no overt act has been assigned to present accused for causing fire arm injury to deceased; he was granted bail by this Court in main case. It also appears from record that the pistol allegedly recovered from present accused was sent for FSL report and as per FSL report the pistol allegedly recovered from present accused has no similarity with the empties recovered from place of incident of murder case. There is no private mashir of alleged recovery of unlicensed pistol from the possession of accused, though his arrest was allegedly made from road side of a thickly populated area. Hence the case of accused is one of further enquiry into his guilt covered under sub-section (2) of section; therefore, accused Muhammad Nabeel is admitted to bail subject to his furnishing solvent surety in the sum of Rs.50,000/- with P.R. Bond in the like amount to the satisfaction of the trial Court.

JUDGE

Athar Zai