

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.

Crl. Bail Application No.S-659 of 2020.

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing of main case.

Mr. Hameedullah Dahri, advocate for applicant.
Mr. Safa Hisbani, A.P.G.

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RASHIDA ASAD, J- By means of this application, applicant/accused Munawar Ali @ Teni, seeks his admission on post-arrest bail in Crime No.54/2020 for offence under section 23-(i)(a) of Sindh Arms Act, 2013, registered at P.S. Kunri, District Umerkot, after rejection of his bail plea by the learned Sessions Judge, Umerkot vide order dated 13.05.2020.

2. Precisely, prosecution case is that on 22.04.2020 at 2100 hours, complainant ASI Bahadur Khan along with his subordinate staff during patrolling apprehended the applicant from Sanwari Shakh Mori, situated at Kunri-Thar Nabisar road and recovered one 30 bore pistol containing 4 bullets in its magazine. Such mashirnama was prepared in presence of mashirs PC Heralal and PC Muhammad Ayoob. Thereafter, FIR was lodged.

3. It is, inter alia, contended by learned counsel for the applicant that applicant is innocent and has been falsely implicated in this case by the complainant due to enmity with him being caste fellow; that there is violation of section 103 Cr.P.C, as alleged recovery was made from thickly populated area; that in fact applicant was arrested from his house and alleged pistol has been foisted upon him; that the

applicant is no more required for further investigation; that the applicant is behind the bars since 22.04.2020; that the case of applicant requires further inquiry. Lastly, he prayed for grant of bail to the applicant.

4. Conversely, learned Addl. P.G. opposed the grant of bail to the applicant.

5. I have considered submissions of the parties and perused material available on record. Admittedly, the investigation is complete and applicant is no more required for investigation. The evidence of the police officials is required to be scrutinized minutely at the time of trial, whether the alleged incident has taken place in a fashion as stated in the F.I.R. or not. Admittedly, there is no independent witness of the incident. According to learned Assistant P.G., there is no criminal record of applicant. Moreover, a mistaken relief of bail may be repaired by convicting the accused, if proved guilt but no proper reparation can be offered from his unjustified incarceration, albeit, his acquittal in the long run. Reliance is placed on the case of ZAIGHAM ASHRAF versus The STATE and others (2016 SCMR 18). Applicant is behind the bars since 25.07.2020 and still trial has not been commenced. All the P.Ws are police officials, hence there is no question of tampering the evidence, therefore, keeping in view the peculiar circumstances of instant case, I am of the view that scale tilts in favour of the applicant for grant of bail as no useful purpose is likely to be served with further detention of applicant pending determination of his guilt. Under these circumstances, a case for release of the applicant on bail on point of further inquiry is made out.

6. In view of above, the bail application was allowed and the applicant was granted bail subject to his furnishing solvent surety in the sum of Rs.50,000/- (fifty thousand only) and P.R Bond in the like amount to the satisfaction of trial court by my short order dated 28.09.2020 and these are the reasons of the same.

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

September 29th, 2020.

JUDGE