

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Amjad Ali Sahito

Criminal Bail Application No.1199 of 2020

Applicant : Shamoon Zain S/o Ikram
Through Mr. Shafiq Ahmed, Advocate

Respondent : The State
Through Mr. Talib Ali Memon.
Assistant Prosecutor General, Sindh

Date of hearing : 04.09.2020

Date of order : 04.09.2020

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks post-arrest bail in Crime No.199/2020 registered under Section 23(i)A Sindh Arms Act, 2013 of PS New Karachi, after his bail plea has been declined by the learned VIII-Assistant Sessions Judge, Karachi Central vide order dated 03.07.2020.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicant/accused, *inter-alia*, contended that the applicant/accused is innocent and has falsely been implicated in this case by the police; that the very arrest shown is in violation of section 23 of the Act, as there is nothing word to fulfill the provision as contended in sub-section (2) of section 23 of the Act, 2013; that the applicant/accused is neither hardened nor desperate criminal; that the alleged recovery has been foisted upon the applicant/accused; that all the witnesses are police officials and no independent witness was sighted as witness in the case which indicates that there is a violation of section 103 Cr.PC; that in main case the crime No.198/2020 under Sections 392/511/34 PPC of Police Station New Karachi, the

applicant/accused has been granted bail by the learned trial Court. He lastly prayed that the applicant/accused is in jail for about three months and no more required for further investigation and prayed for grant of bail.

4. Learned APG for the State opposed for the grant of bail and supported the impugned order.

5. I have heard the learned counsel for the applicant/accused, learned APG for the State and examined the material available on record. It is an admitted fact that the applicant/accused has been granted bail in the main case bearing Crime No. 198/2020 under Sections 392/511/34 PPC of Police Station New Karachi by the learned trial Court and the present case being off-shoot of the same, therefore, he deserves to be released on bail on the ground for further inquiry. The case in hand regarding punishment has to be determined by the learned trial Court. In such like cases, whether accused would be liable to the maximum punishment as provided for the offence and also as to whether the punishment in the case of proof of guilt after trial in the circumstances would fall under the prohibitory clause are the questions, requiring further probe, the applicant/accused is in a jail for last three months without any tangible progress in the trial Court and all the witnesses are police officials, therefore, there is no apprehension of tampering of prosecution evidence.

6. Considering the above circumstances, I am of the view that the applicant/accused has succeeded to make out a case of grant of post-arrest bail and consequently the instant bail application is allowed. The applicant/accused above named is granted bail subject to his furnishing solvent surety in the sum of Rs.25,000/- (rupees twenty five thousand only) and P.R. bonds in the like amount to the satisfaction of the learned trial Court.

7. The observations made supra are tentative in nature and learned trial Court shall decide the case specifically on merits.

JUDGE

Kamran/PA