

IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Appln.No. 261 of 2017

Applicant/accused : Raza Arif s/o Jabeen Arif, through Mr. Arshad Khan, Advocate.

Respondent : The State, through Mr. Abrar Ali Khichi, learned APG.

Date of hearing : 25.04.2017

Date of Order :

ORDER

YOUSUF ALI SAYEED, J. Following the dismissal of his initial bail application before the XIIth Additional District and Sessions Judge, Karachi (West), the Applicant has invoked the jurisdiction of this Court in terms of this subsequent Application under Section 498 Cr. P.C., whereby he seeks bail in relation to an alleged offence under S. 406 PPC, which is the subject of FIR No.08/2017 registered on 19.01.2017 at P.S. Shershah, Karachi (the “**FIR**”).

2. The brief facts of the prosecution case, as set out in the FIR, are that on the day of incident (i.e. 22.12.2016), the Complainant, one Mst. Aisha Parvaiz, due to a marital dispute with her husband, had packed her belongings, which are said to include her educational certificates, marriage certificate, and gold jewelry set weighing 3½ tolas and prize bond of Rs.20,000/-, and was set to depart for her parent’s residence when the Applicant, who is the brother of her husband, offered to drop her bag containing the said articles there on her behalf. As per the Complainant, she entrusted the bag to him at 10:30 AM and he dropped the same at her parent’s house at 9:30 PM. However, when she checked the bag, only her articles of clothing were present and all other items were missing, and were reported by her to have been stolen by the Applicant.
3. Learned counsel for the Applicant has contended that the Applicant is innocent and has been falsely implicated for ulterior motive in the course of a family dispute, and the existence of such discord is evident from the Complainants own statement in the FIR. He submits that the FIR is motivated as part of a vendetta.

4. Learned counsel further submits that there is a delay of 28 days in filing of the FIR and nothing incriminating is said to have been recovered from the Applicant. Learned APG does not controvert this submission. The Complainant present in person opposed the confirmation of bail, but could not refer to any material that implicates the Applicant other than her bare statement.
5. Having considered the matter, I am of the opinion that it is one that requires further inquiry, as envisaged under Section 497(2) Cr. P.C. Furthermore, the Applicant is not said to have any prior criminal record and there is no allegation of the likelihood of absconcion or interference in the investigation. As such, the matter appears to be a fit case for confirmation of bail. Needless to say, the observations made above are tentative in nature and should not to be read so as to influence the trial Court in its determination of the main case in any manner whatsoever.
6. These are the reasons for the short Order dictated in Court on 25.04.2017 whereby ad-interim pre-arrest bail granted earlier to the Applicant on furnishing of solvent surety in the sum of Rs.50,000/- and execution of P.R. Bond in like amount was confirmed on the same terms.

JUDGE