

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.1351 of 2021

Date *Order with signature of Judge*

For hearing of Bail Application.

01.09.2021

Mr. Farrukh Nawaz Gandapur, Advocate for the Applicant.
Mr. Ali Haider Saleem, Addl. Prosecutor General, Sindh.
Mr. Muhammad Shahid, Advocate for the Complainant.

ORDER

Muhammad Saleem Jessar, J:- Through this bail application, Applicant Jalal Uddin seeks his release on post arrest bail in Crime No.251/2021 of P.S Clifton, Karachi, under Section 337-A(i)/337-F(vi)/504/506/427/34 PPC. The applicant preferred his bail plea before the first forum, which was turned down by means of order dated 07.07.2021; hence, he has approached to this Court through this Application.

Since the facts of the prosecution case are already mentioned in the FIR, which is annexed with Court file, therefore, there is no need to reproduce the same.

Learned counsel for the applicant submits that the FIR is delayed for about nine days and the role attributed to applicant is that he allegedly issued threats. He further submits that case has been challaned which is now pending for trial before the Court of 3rd Judicial Magistrate, Karachi (South) and the applicant is no more requires for the purpose of investigation or interrogation. He further submits that injury allegedly

sustained by the injured are not attributed to the applicant and same are assigned to co-accused.

Learned Addl. P.G, Sindh appearing for the State submits that per final medico legal certificate, injury allegedly sustained by the injured has been declared as *Shajjah-e-Khafifa* which is bailable and rest of the sections applied in the FIR are not exceeding limits of prohibitory clause of section 497 Cr.P.C; besides, applicant has been assigned no role; however, he opposes the bail application.

Learned counsel for the complainant also opposes the bail application on the ground that applicant is his tenant; besides, has made assault upon the complainant due to professional jealousy, hence, he is not entitled for bail.

Heard arguments, record perused. Admittedly, the incident, as reported, is said to have taken place on 25.05.2021, whereas, report thereof was lodged on 04.06.2021 i.e. with delay of about nine days for which no plausible explanation has been furnished by the prosecution for such an inordinate delay. The injury allegedly sustained by the injured / complainant are attributed to co-accused who are in custody and the fate of their bail is yet to be determined by the trial Court after hearing the parties. As far as case of applicant is concerned, per FIR complainant has contended that he too had issued threats to him; however, has not assigned any role of causing injury or shown that applicant was having any kind of weapon in his hand at the time of alleged offence. If the contents of FIR to the extent of present applicant may be presumed to be true, even then he, after recording evidence of the parties, may be held responsible for the section 506 PPC only, which too is bailable.

In the circumstances and in view of dicta laid down by the Hon'ble Supreme Court of Pakistan in case of *MUHAMMAD TANVEER Versus The STATE and another (PLD 2017 SC 733)* followed/recognized in an unreported case of *IFTIKHAR AHMED Versus The STATE*, passed by Hon'ble Supreme Court of Pakistan under Criminal Petition No.529 of 2021 in terms of order dated 14.07.2021, case against applicant requires further inquiry within the meaning of sub-section 2 to section 497 Cr.P.C.

Consequently, bail application in hand is hereby allowed. Applicant **Jalal Uddin son of Syed Ameer Muhammad**, shall be released on bail subject to furnishing his solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousands Only) and PR Bond in the like amount to the satisfaction of learned trial Court.

It need not to iterate that the observation(s) made hereinabove is/are tentative in nature and shall not prejudice the case of either party during trial. However, the learned trial Court may proceed against the Applicant, if he will be found misusing the concession of bail.

This Criminal Bail Application is disposed of in the terms indicated above.

JUDGE

Zulfiqar/P.A