

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.1354 of 2021

Date *Order with signature of Judge*

For hearing of Bail Application.

07.09.2021

Mr. Shahid Hussain, Advocate along with Applicant (on bail).
Syed Meeral Shah, Addl. Prosecutor General, Sindh.

ORDER

Muhammad Saleem Jessar, J:- Through this application, applicant Faiz Muhammad seeks his admission on pre-arrest bail in Crime No.376/2021 of Police Station Boat Basin, Karachi, under Section 337-A(i)(ii)/504/506 PPC. The bail plea preferred by the applicant before first forum was declined by means of order dated 20.05.2021, hence this bail application.

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

The complainant, despite of notice, has chosen to remain absent.

Learned counsel for the applicant submits that after furnishing surety before this Court, applicant/accused surrendered before the trial Court / Court of 7th Judicial Magistrate, Karachi (South). In support of his contention, he submits certified copy of case diary dated 15.07.2021, same is hereby taken on record. He further submits that FIR is delayed for about seven days and no plausible explanation has been furnished by the prosecution for such an inordinate delay. He next submits that offence does not fall under the prohibitory clause of section 497 Cr.P.C, therefore, case against applicant requires further inquiry.

On the other hand, learned Addl. P.G, Sindh opposes the bail application on the ground that applicant has misused the concession of bail extended to him by the first forum, therefore, he is not entitled for

extraordinary relief. He; however, admits the FIR is delayed for about seven days.

Heard arguments and perused record. Since after the dismissal of his pre-arrest bail application by the 1st Additional Sessions Judge/MCTC, Karachi (South), he approached to this Court through instant application which shows he had no wrong intention to abscond away, therefore, objection raised by Addl. P.G, Sindh with regard to his misuse of concession, in view of above, is hereby discarded. As far as, merits of the case are concerned, the sections applied under the FIR areailable except section 337-A(ii), which carries maximum punishment of five years. Reliance can be placed upon case of *KHALEEL AHMED SOOMRO & OTHERS Versus The STATE (PLD 2017 SC 730)*. Moreover, the case is being tried by Judicial Magistrate, where after recording evidence of the parties if prosecution may succeed to prove its charge against him even then punishment of more than three years cannot be visualized. Accordingly, instant bail application is hereby allowed; interim bail granted earlier to applicant **Faiz Muhammad son of Jado** on 14.07.2021 is hereby confirmed on same terms and conditions.

Before parting with this order; however, it is clarified that the reasoning given in this order are tentative in nature and will have no effect whatsoever in any manner upon the merits of the case.

Applicant present before the Court is directed to continue his appearance before the trial Court without negligence and in case he may misuse the concession or may temper with the prosecution's evidence then the trial Court is competent to take legal action against him as well to his surety in terms of Section 514 Cr.PC. Trial Court is also hereby directed to make necessary arrangements for securing attendance of the prosecution witnesses and conclude the trial within shortest possible time under intimation to this Court through MIT-II.

Let copy of this Order be communicated to trial Court through learned Sessions Judge, concerned. Learned MIT-II to ensure compliance.

JUDGE