

**ORDER SHEET**  
IN THE HIGH COURT OF SINDH, KARACHI

**Criminal Bail Application No.1342 of 2021**

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*Date*

*Order with signature of Judge*

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*For hearing of Bail Application.*

**20.09.2021**

Mr. Muhammad Jamil, Advocate for the Applicant.  
Ms. Rahat Ehsan, Addl. Prosecutor General, Sindh.

**ORDER**

**Muhammad Saleem Jessar, J:-** Through this bail application, applicant Adeel Bahadur seeks his release on post arrest bail in Crime No.66 of 2021 of P.S Quaidabad, Karachi, under Section 23(I)A of Sindh Arms Act, 2013. The bail plea preferred by accused before trial Court was declined by means of order dated 01.07.2021, hence this application has been maintained.

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.

Learned counsel for applicant submits that instant case was outcome of FIR No.63/2021 under Section 302/34 PPC of P.S Quaidabad, Karachi vide Sessions Case No.1423/2021 (re-the State Versus Adeel Bahadur). Next submits that due to compromise between the parties, applicant Adeel Bahadur has been acquitted from the charge of main case by way of compromise in terms of section 345(6) Cr.P.C and has also been directed to be released from the jail. In support of his contention, he places on record a copy of release writ dated 27.08.2021 issued by the trial Court/1<sup>st</sup> Additional Sessions Judge, Malir Karachi, same is hereby taken record. He further submits that punishment provided by the law for sections applied in the FIR is discretionary. He further submits that one attesting witness / mashir namely Muslim Shah had also filed his Affidavit before the trial Court and thereby he has totally exonerated him from the charge of instant case; hence, case against applicant requires further inquiry.

On the other hand, learned Addl. P.G, Sindh appearing for the State, opposes the bail application on the ground that instant case is separate entity and carries maximum punishment. She; however, could not

controvert the fact that attesting witness/mashir namely Muslim Shah had exonerated the applicant from commission of the offence; besides, applicant has been acquitted from the charge of main case.

**Heard arguments, record perused.** Admittedly, instant case is outcome of Crime No.63/2021 of P.S Quaidabad, Karachi, under Section 302/34 PPC, which being main case has been ended in his acquittal by way of compromise in terms of Section 345(6) Cr.P.C. Reference can be had from the case of *YASIR CHAUDHRY Versus The STATE (2012 MLD 1315)*. As far as instant case is concerned, one of the attesting witnesses/mashirs namely Muslim Shah had filed his Affidavit before the trial Court; thereby had exonerated him from commission of the offence. By filing Affidavit and thereby exonerating the applicant from charge of instant case, prosecution witness himself has dented the case of prosecution which creates doubt upon the veracity of prosecution evidence. Reliance can be placed upon case of *SAJID alias CHITTA Versus The STATE and others (2016 SCMR 2089)*. As far as contention of learned Addl. P.G, Sindh that instant case being separate entity carries maximum punishment, is concerned, law does not provide fix quantum of the sentence; however, it has been left over upon the discretion of the trial Court that could be from zero to fourteen years; hence, following dicta laid down by this Court in case of *AYAZ ALI Versus The STATE (PLD 2014 Sindh 282)* I am of the considered view that case against applicant requires further inquiry within the meaning of subsection 2 to section 497 Cr.P.C. Consequently, instant bail application is hereby allowed. Applicant Adeel Bahadur son of Naseeb Gulab, 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 may be pertinent to mention here 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 is found misusing the concession of bail.

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

**JUDGE**