

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1917 of 2021

Shahzad Mastoi,
applicant through:

Mr. Rashid Mehmood Siddiqui,
advocate

The State,
through:

Mr. Faheem Hussain Panwhar, DPG

Muhammad Mujahid,
complainant through:

Mr. Muhammad Ibrahim Shaikh,
advocate

Date of hearing:

28.12.2021

ORDER

Adnan-ul-Karim Memon, J. The applicant Shahzad Mastoi is seeking admission on post-arrest bail in FIR No.361/2021 for offenses under Section 324/34 PPC registered at PS Sukhan, Karachi, *inter-alia*, on the ground that no such incident has taken place as portrayed by the complainant in the F.I.R; that complainant wrongly stated in the F.I.R that on 30.08.2021, they were intercepted by the applicant and made firing, which bullet hit on the right leg of his relative Saleem Khan and subsequently they escaped away from there; that the ocular account furnished by the complainant is not supported by the medical evidence; prima facie there is insufficient material to connect the present applicant with the commission of the alleged crime.

2. Mr. Rashid Mehmood Siddiqui, learned counsel for the applicant, has contended that injured has recorded his 161 Cr.P.C. statement to the effect that he did not recognize the assailants and this story was narrated to him by the complainant from the police station; that co-accused has already been granted post-arrest bail by the learned trial court; that investigating officer has collected material which proves his innocence; that applicant was not available at the place of incident as depicted by the complainant; that there is civil litigation pending between the parties in the court of learned Senior Civil Judge Malir, Karachi, and stay is operating in the matter against the complainant; that applicant has also lodged F.I.R against the complainant at PS Jackson Karachi on 13.09.2021; that the mother of the applicant has filed Constitution Petition No.D-793/2020 before this court against the complainant and this Court vide order dated 21.10.2021 disposed of the same on the undertaking of learned AAG. He lastly prayed for allowing the instant bail application.

3. Mr. Muhammad Ibrahim Shaikh, learned counsel for the complainant, has controverted the stance of the applicant and argued that on 30.08.2021, complainant along with his relative namely Mohammad Saleem was coming to their house from Bhains Colony curve on motorcycle, at about 10.30 p.m, after crossing railway crossing, when they reached at PMTF road, they were intercepted by applicant Shahzad Mastoi and Imtiaz Mastoi, threatened him to vacate the Cattle Farm, complainant resisted and pushed accused Imtiaz Mastoi, the applicant made firing upon them with intention to commit their murder, resultantly one bullet hit on the right leg of his relative Mohammad Saleem and blood started oozing; that they had saved their lives and escaped away from scene and went to Police Station and after obtaining letter for medical treatment, they attended the Jinnah Hospital for medical treatment and obtained certificate; that matter was promptly reported by the complainant at Police Station with specific allegation that due to firing made by the applicant his relative Mohammad Saleem sustained firearm injury on his right leg; that the ocular account furnished by the complainant is supported by the medical evidence; that all prosecution witnesses have fully supported the prosecution version; that there is sufficient material available on record to connect the present applicant with the commission of crime. He prayed for the dismissal of the instant bail application.

4. Mr. Faheem Hussain Panwhar, learned DPG has supported the stance of the complainant and prayed for dismissal of the instant bail application.

5. I have heard the learned counsel for the parties and perused the material placed on record.

6. Tentative assessment of record reflects that the injured Saleem Khan has recorded his 161 Cr.P.C. statement that he did not recognize the assailants; that complainant had narrated the story to him from the police station; that constitution petition filed by mother of the applicant was disposed of by this court vide order dated 21.10.2020 on the premise that the police will be neutral in any dispute between the parties; that Civil Suit No. 163 of 2020 is pending between the parties in Civil Court Malir. However, the learned trial Court has to look into the allegations and counter-allegations between the parties by recording evidence within a reasonable time i.e. two months. During the intervening period, injured Saleem Khan must be examined.

7. From the above facts and circumstances of the case, the case against the applicants requires further inquiry as provided under section 497(2) Cr.P.C.

8. For the reasons recorded above, this bail application is allowed. The applicant Shahzad Mastoi is admitted to post-arrest bail in FIR No.361/2021 for

offenses under Section 324/34 PPC registered at PS Sukhan, Karachi subject to furnishing solvent surety in the sum of Rs.200,000/- (Rupees two hundred thousand only) and PR bond in the like amount to the satisfaction of the Trial Court.

9. The observation recorded hereinabove is tentative shall not prejudice the trial court.

10. These are the reasons for my short order dated 28.12.2021 whereby the applicant was admitted to post-arrest bail.

JUDGE

Zahid/*