

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**Criminal Bail Application No.2426 of 2021**

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*Date* *Order with signature of Judge*

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*For hearing of Bail Application.*

**10.01.2022**

Mr. Shariq Naveed Arain, Advocate for the Applicant.  
Mr. Talib Ali Memon, Assistant Prosecutor General, Sindh along  
with ASI Akhtar Zaman of P.S AVCC/CIA, Karachi.

**ORDER**

**Muhammad Saleem Jessar, J:-** Through this bail application, Applicant Waqas @ Kala seeks his release on post arrest bail in Crime No.28/2021 of P.S AVCC/CIA, Karachi, under Section 23(i) (A) of Sindh Arms Act, 2013. Since the case has been challaned by the police which is now pending for trial before the Court of 1<sup>st</sup> Addl. Sessions Judge, Karachi (West) vide Sessions Case No.2553/2021 (re-the State Versus Waqas @ Kala). The applicant preferred his bail plea before the trial Court, which was turned down by means of order dated 04.12.2021; hence, he has approached to this Court through this Application.

2. 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.

3. Learned counsel for the applicant submits that applicant is an employee at a mobile shop where the police ever used to get free services and on refusal he was threatened by the complainant and subsequently, was booked under this crime. He further submits that the punishment provided by the law for this particular offence is discretional and it is yet to be determined by the trial Court after recording evidence of the parties whether or not the prosecution has established its case or otherwise. He, therefore, submits that applicant may be enlarged on bail.

4. On the other hand, learned Assistant P.G, Sindh assisted by complainant/ASI Akhtar Zaman of P.S AVCC/CIA, Karachi, submits that prior to this offence, applicant was booked under Crime No.351/2019 of P.S Shahra-e-Noor Jehan, under Section 392 PPC; however, he is unable to disclose fate of that case.

5. Heard arguments, record perused, Admittedly, the case has been challaned by the police and the applicant is no longer required for the purpose of investigation or interrogation. The PWs in this case are from police department, therefore, question of his absconding or tampering with prosecution evidence is beyond the sight. As far as, punishment provided by the law for section 23 (i) A of Sindh Arms Act, 2013 is concerned, it has been left upon the discretion of the trial Court which is yet to be determined by the trial Court after recording evidence of the prosecution witnesses; hence, quantum of sentence is not specified and is yet to be determined by the trial Court, therefore, the case against applicant requires further inquiry within the meaning of subsection 2 to section 497 Cr.P.C.

6. Complainant present in Court, undertakes to appear before the trial Court on 24.01.2022 along with his witnesses for recording their evidence.

7. In the circumstances, I am fortified with dicta laid down by this Court in case of *AYAZ ALI Versus The STATE (PLD 2014 Sindh 282)*. Consequently, instant bail application is hereby allowed. Applicant **Waqas @ Kala son of Muhammad Israr**, 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.

8. 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.

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

**JUDGE**