

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 2116 of 2021

Applicant : Shan Nawaz Khan s/o Khushhal Khan,
thorough Mr. Muhammad Shahid, advocate

Respondent : The State, through Ms. Rahat Ehsan,
Additional Prosecutor General, Sindh

Complainant : Khurram Zafar (*nemo though served with the notice*)

Date of hearing : 24.01.2021
Date of order : 24.01.2021

ORDER

ZAFAR AHMED RAJPUT, J:- Having been rejected his earlier Bail Before Arrest Application bearing No. 2267 of 2021, arising out of Crime/F.I.R. No. 405 of 2021, registered at P.S. Nazimabad under Sections 392, 397/34, P.P.C., by the Court of Vth Additional Sessions Judge, Karachi-Central vide order dated 29.09.2021, applicant/accused Shan Nawaz Khan s/o Khushhal Khan through this application seeks the same concession from this Court. He was admitted to interim pre-arrest bail by this Court vide order, dated 12.11.2021.

2. It is alleged that, on 16.09.2021, complainant Khurram Zafar was going to Haidry Market from his home on his motor cycle, when he reached near shop of Dilpasand Sweet at 12:20 p.m., two persons riding on a motor-cycle, out of them the person sitting on rear seat was having pistol in his hand, snatched from the complainant his mobile phone and fled away. Meanwhile, a police mobile reached there. The complainant narrated the incident to police officials, who chased the culprits and apprehended the accsued, sitting on rear seat of the motor-cycle while the other succeeded to make his escape good. The apprehended accsued disclosed his name as Muhammad Hanif s/o Ali Muhammad and the name of his co-accsued as Shayan alia Shahani. Police recovered one un-licensed 30 bore pistol, snatched mobile phone and other articles from the possession of the apprehended accsued, who was brought at police station where instant F.I.R. was recorded.

3. Heard the learned counsel for the applicant, Additional Prosecutor General and also perused the material available on record.

4. After completing the investigation, police has submitted the Challan against the accused persons; therefore, the custody of applicant is not required by the police for investigation. It is an admitted position that the applicant has been implicated in this case on the basis of statement of arrested co-accused, which is inadmissible under Article 38 of Qanun-e-Shahadat Order, 1984. As such, involvement of the applicant in commission of alleged offence requires further inquiry as envisaged under sub-section (2) of Section 497, Cr. P.C. Hence, interim bail granted to the applicant by this Court vide order, dated 12.11.2021, is confirmed on the same terms.

5. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits. However, in case the applicant misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving him notice, in accordance with law

Cr. Bail Application stands disposed of.

JUDGE

Athar Zai