

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. 1754 of 2021

Applicant : Muhammad Waqas Ghouri s/o Muhammad Afaq Ghouri, through Mr. Farhan Ahmed, advocate .

Respondent : The State, through Mr. Talib Ali Memon, APG.

Complainant : Mst. Ruqaya, through Mr. Saghir Ahmed Abbasi, Advocate.

Date of hearing : 28.01.2021

Date of order : 28.01.2021

ORDER

ZAFAR AHMED RAJPUT, J:- Having been rejected his earlier bail application bearing No. 3327 of 2021 by the learned Sessions Judge Malir, Karachi vide order, dated 07.08.2021, applicant/accused Muhammad Waqas Ghouri s/o Muhammad Afaq Ghouri through instant Criminal Bail Application seeks post-arrest bail in Crime/F.I.R. No. 1215 of 2021, registered at P.S. Shah Latif Town under Section 376 & 449, P.P.C.

2. As per F.I.R., the complainant, who is a mother of three children, was earlier residing in a rented house bearing No.56-B, situated in Ghost Gali, Quaidabad and the applicant was her neighbour, who used to tease her when she went to market. It is alleged that, on 29.05.2021 at 0030 hrs., when her husband had gone to Safora to see his relatives, the applicant having been effected his entrance into the house of complainant by jumping from the roof, committed rape on her and at about 0100 hrs. he run away from the main door of the house. She disclosed the alleged incident to her husband after three days and then she lodged the F.I.R.

3. Heard, Record perused.

4. Perusal of the record shows that after lodging of the F.I.R. on 07.07.2021, the applicant was arrested on 08.07.2021 and since then he is in judicial custody. Police has already submitted charge sheet before the Court

concerned; hence, the custody of the applicant is no more required by the police for further investigation. As per her own contention, the complainant disclosed the alleged incident to her husband after three days of the alleged incident, but F.I.R. has been recorded after passing of 38 days and for that no plausible explanation has been furnished by the complainant.

5. As per M.L.C., the complainant, 35 years old lady, having three children from her second husband and 6 from first husband, appeared for examination on 10.07.2021. There was no mark of violence on her body. Keeping in view the clinical examination, nothing could be opined regarding the fresh act of sexual intercourse and the samples were not taken due to lapse of time (40 days).

6. The F.I.R. itself is not suggestive if the complainant offered any resistance or raised outcry upon entering of applicant in the room and during the alleged act, which lasted for 30 minutes, to attract at least to her own children who were admittedly residing with her in the same house.

7. Keeping in view the circumstances discussed above, it is a case of further inquiry as contemplated under sub-section (2) of Section 497, Cr. P.C. Accordingly, I admit the applicant to bail in aforesaid crime/offence subject to furnishing by him solvent surety in the sum of Rs. 1,00,000/- (*Rupees One Lac only*) and PR bond in the like amount to the satisfaction of the trial Court.

8. 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. 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.

JUDGE