

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 1883 of 2021

Applicant : Muhammad Kashif s/o Aashiq Hussain,
through Mr. Mehmood Habibullah, advocate

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

Date of hearing : 16.02.2022
Date of order : 16.02.2022

ORDER

ZAFAR AHMED RAJPUT, J.- Applicant/accused Muhammad Kashif s/o Aashiq Hussain on being unsuccessful in getting relief of post-arrest bail, vide order dated 26.06.2021, passed by the Additional Sessions Judge-X, Karachi-West in Sessions Case No. 693 of 2020, through instant application seeks the same concession from this Court in Crime/F.I.R. No. 254 of 2019, registered at Police Station Gulshan-e-Maymar, Karachi under section 302, 392, 34, P.P.C.

2. It is alleged that, on 24.08.2019 at about 1900 hours at thorough street near Tamqeen School, Noor Muhammad Village, Gulshan-e-Maymar, Karachi, three un-known accused persons, in furtherance of their common intention, robbed a motorcycle from Shahid s/o Abdul Moeed and on his resistance one of the accused caused him firearm injuries, who later on died during treatment, for that aforesaid F.I.R. was lodged.

3. Learned counsel for the applicant has mainly contended that the applicant is innocent and has falsely been implicated in the case by the police with mala fide intention; that the name and description of the applicant is not mentioned in the F.I.R.; that the complainant is not eye witness of the incident; that nothing incriminating has been recovered from possession or pointation of the applicant to connect him with the commission of alleged offence; that there is un-explained delay of six days in lodging of F.I.R.; therefore, it is a fit case of further inquiry entitling the applicant to the grant of bail.

4. On the other hand, learned Additional Prosecutor General has opposed the instant application on the grounds that the applicant is involved in a heinous offence, who has been identified by the witnesses in identification parade wherein specific role has been attributed to him in the commission of alleged offence; as such, he is not entitled to the concession of bail; therefore, this application is liable to be dismissed.

5. Heard learned counsel for the parties and perused the material available on record.

6. It appears from the perusal of the record that the complainant Fazal Hussain is the uncle of the deceased Shahid, aged about 32-33 years old, who served in the cattle farm of one Muhammad Hussain. On the fateful day, the deceased took a motor-cycle, bearing registration No. KLM-7524, from one Ameer Bux, which was robbed from him, and on offering resistance, he sustained firearms injuries by the hands of one of the robbers/accused persons and lost his life on the next day during treatment in Abbasi Shaheed Hospital; after his burial in his ancestral village, the complainant lodged the F.I.R. Hence, the delay in lodging of F.I.R. is well explained and since the F.I.R. has been lodged against the unknown robbers/accused persons, there appears no mala fide, ill-will and any element of deliberation and consultation to implicate any accused person falsely.

7. It further appears that, on 25.10.2019, present applicant was arrested by the police. He was identified by the eye-witness, namely, Riaz Ahmed in identification test conducted by the Judicial Magistrate-XVIII, Karachi-East, who has no enmity and ill-will against the applicant. As such, from the tentative assessment of the evidence on record, it appears that the prosecution has sufficient evidence against the applicant to connect him with the commission of alleged offence; hence, he is not entitled to concession of bail.

8. For the forgoing facts and reasons, I dismiss this criminal bail application. Needless to mention here that the observations made hereinabove by this Court are tentative in nature and the same shall not influence the trial Court while deciding the case of applicant on merit.

Above are the reasons of my short order dated 16.02.2022.

JUDGE

Athar Zai