

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 401 of 2021

Applicant : Basheer s/o Abdul Hakeem, through
Mr. Sanaullah Soomro, advocate

Respondent : The State, through
Mr. Faheem Hussain Panhwar, D.P.G.

Date of hearing : 10.03.2022

Date of order : 10.03.2022

ORDER

ZAFAR AHMED RAJPUT, J. - Applicant/accused Basheer s/o Abdul Hakeem on being unsuccessful in getting concession of pre-arrest bail, vide order dated 17.02.2021, passed by the learned VIIIth Additional Sessions Judge, Karachi-East in Criminal Bail Application No. 4701 of 2020, through instant application seeks the same concession from this Court in Crime/F.I.R. No. 330 of 2020, registered at Police Station P.I.B. Colony, Karachi under section 324, 34, P.P.C. He was granted interim pre-arrest bail vide order, dated 08.03.2021, now the matter is fixed for confirmation or otherwise.

2. It is alleged that, on 19.08.2020 at about 05:45 p.m., applicant alongwith co-accused, namely, Habib Gabol, Bilawal alias Bilal alias Shahoo, Shahmeer and Shabbir alias Cheena came inside Sukhia Ground near Government Sindh Primary School, Munnu Goth, Old Sabzi Mandi, Karachi in furtherance of their common intention and the applicant caused firearm injuries to complainant with intention to commit his murder, which hit on his right shin and wrist of left hand, for which, the applicant and co-accused were booked in the instant F.I.R.

3. Learned counsel for the applicant contends that the applicant is innocent and has falsely been implicated in the case by the complainant with mala fide intention and ulterior motives; that the alleged injury is on non-vital

parts of the body of the complaint; that there is no independent witness of the alleged incident; that the prosecution has not collected any evidence to connect the applicant with the commission of alleged offence; that the applicant was arrested by the police in Crime No. 70/2019 registered at P.S. SIU, Karachi under Section 6/9(c) of the Control of Narcotic Substances Act, 1997; however, he has been acquitted of the charge by the learned Sessions Judge, Karachi West vide judgment dated 07.10.2019 passed in Sessions Case No. 1354/2019, whereby the learned trial Court directed the Inspector General of Police to conduct departmental proceedings against P.Ws. in the said case, as they deposed falsely against the applicant; that the applicant sent applications to higher authorities for compliance of the said order, which annoyed the police officials, who threatened the applicant for involving him in false cases; that the alleged offence does not fall within the prohibitory clause of section 497 Cr.P.C.; hence, the applicant is entitled to the concession of bail.

4. On the other hand, learned D.P.G. opposes the instant application on the ground that the applicant caused firearm injuries to the complainant, which fact is duly corroborated by the MLC; that the applicant has a criminal record; hence, he is not entitled to the extra ordinary relief of pre-arrest bail.

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

6. It appears that the applicant is nominated by name in the promptly recorded F.I.R. with specific role of causing firearm injuries to the complainant, which injuries are duly supported with MLC. The complainant is the watchman of alleged Sukhia Ground who already had inimical terms with accused persons on selling of drugs. The applicant has alleged enmity

with SIU Police and not with PIB Colony Police and the complainant. The applicant also has a criminal record as he was earlier involved in (i) Crime No. 362/2015, under section 353, 324/34, P.P.C. of P.S. PIB Colony (2) Crime No. 364/2015, under section 3/ 4 of Prohibition Ordinance of P.S. PIB Colony (3) Crime No. 453/2016, under section 353, 324, 186/34, P.P.C. r/w 7, ATA of P.S. PIB Colony (4) Crime No. 70/2019, under section 6-9 (C), CNS, Act of P.S. SIU. The applicant repeated fire shots at the complainant, which shows that he made so with intention to cause serious harm to complainant. Prima facie, sufficient material is available with the prosecution to connect the applicant with the alleged offence. The counsel for the applicant has not been able to point out any special feature of the case entitling the applicant to the grant of extra-ordinary concession of pre-arrest bail. Pre-requisites for such concession i.e. malice and ulterior motive, either on the part of complainant or the police are conspicuously missing in the case. Accordingly, this application is dismissed. The interim bail granted to accused, vide order dated 08.03.2021, stands recalled.

The instant Cr. Bail Application stands disposed of.

JUDGE

Athar Zai