

**IN THE HIGH COURT OF SINDH AT KARACHI**

Criminal Bail Application No. 2427 of 2021

**Applicants** : Faizan Sarang s/o Waheed Hussain, through Mr. Muhammad Ashfaq, advocate

**Complainant** : Syed Noor-ul-Hasan s/o Syed Muhammad Salman, through Mr. Moula Bux Abro, advocate

**Respondent** : The State, through Mr. Faheem Hussain Panhwar, Deputy Prosecutor General, Sindh

**Date of hearing** : 22.02.2022

**Date of order** : 14.03.2022

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**ORDER**  
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**ZAFAR AHMED RAJPUT, J.-** Applicant/accused Faizan Sarang s/o Waheed Hussain on being unsuccessful in getting post-arrest bail, vide order dated 05.08.2021, passed by the learned 3<sup>rd</sup> Additional Sessions Judge, Karachi-East in Criminal Bail Application No. 3052 of 2021, through instant application seek the same concession from this Court in Crime/FIR No. 200 of 2021, registered under section 324/34, P.P.C. at P.S. Gulshan-e-Iqbal, Karachi

2. It is alleged that, on 21.02.2021 at about 2030 hours, complainant Syed Noor-ul-Hasan was sitting with his friend Owais in his showroom, situated at Gulshan Mord, Block-13-D, Gulshan-e-Iqbal. Tariq and Najam-ul-Haq were roaming around showroom alongwith one unknown accsued from evening. The un-known accused came in showroom and attempted to commit *qatl-e-amd* of complainant and his said friend by causing them fire shots, for which, the accused were booked in the instant case.

3. Learned counsel for the applicant has mainly contended that the applicant is innocent and has been falsely implicated in the case by the police with ulterior motive; that there is no reasonable ground for believing that the applicant is guilty of alleged offence; that nothing has been recovered from the

applicant and the alleged recovery has been foisted upon him by the police to show their efficiency; that the name of applicant does not appear in the F.I.R.; that co-accused, namely, Tariq Aziz, Syed Najam-ul-Hassan, Mazhar and Mst. Rukhsana have already been admitted to bail; hence, the applicant is also entitled to the bail on the rule of consistency; that the applicant is confined in judicial custody since the day of his arrest; that the confessional statement of the applicant was recorded under duress and torture; hence, the same is inadmissible in law; that the guilt of the applicant requires further inquiry.

4. On the other hand, learned counsel for the complainant and learned D.P.G. have opposed this application on the ground that the statement of the applicant under section 164, Cr.P.C. was voluntarily and prosecution has sufficient evidence to connect him with the commission of alleged offence; that the role of applicant is quite distinguishable then the role of co-accused persons who have been admitted to bail; hence, principle of rule of consistency is not applicable in the case of applicant.

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

6. It appears that the injured complainant received three firearm shots and his friend Owais one received firearm shot. It also appears that the complainant and his sister Rukhsana have inimical terms over the property dispute regarding which cases are also pending adjudication in Court of law and the husband of Mst. Rukhsana, namely, Tariq Ali hired accused persons to get the complainant/his brother-in-law killed. On 11.05.2021, police arrested the applicant, who on the instructions of Tariq Ali, made planning to commit murder of the complainant with his friends, namely, Irfan @ Maang (2) Mazhar (3) Usman (4) Awais Parwan and (5) Rehman and on the day of incident he along with Irfan @ Maang and Awais Parwan went on motorcycles on the

showroom where Awais Parwan made fire on complainant to commit his murder which also hit to complainant's friend who was sitting with him in showroom, and then they all ran away. He then informed to Tariq Ali about the accomplishment of the task, who paid him Rs.60,000/-. Applicant has confessed his guilt in his confessional statement recorded under section 164, Cr.P.C. on 19.05.2021 by the V-Judicial Magistrate, Karachi-East.

7. The contention of learned counsel for the applicant that the confessional statement of the applicant was not voluntarily but result of a torture, does not find support from record as nothing is available on record if the applicant was tortured in police custody. Even the applicant did not make any complaint of torture to Judicial Magistrate at the time of his remand or recording of his confessional statement. The Judicial Magistrate before recording confessional statement examined the body of applicant with his consent and recorded no mark of violence on his body. The applicant, in reply to a question of Judicial Magistrate, deposed that he was giving confessional statement on his will as well as on saying of his mother. Hence, aforementioned contention of learned counsel for the applicant appears to be after thought otherwise, if so, the applicant could have retracted from his confessional statement by submitting such application to Judicial Magistrate or to trial Court which has admittedly not been done by him till date.

8. The case of the applicant appears to be on different footings then the case of the accused persons who have been admitted to bail. He appears to be master planner of the alleged offence and from CDR data his presence is found at the place of incident at the relevant time; he brought co-accused Awais Parwan at the place of incident who after making attempt to *qatl-e-amd* of complainant crossed the road and ran away with the applicant. Prima facie, applicant shared common intention with co-accused Owais Parwan for

commission of alleged offence and the prosecution has sufficient evidence to connect him with the commission of alleged offence, which falls within the prohibitory Clause of section 497, Cr.P.C. Accordingly, instant Cr. Bail. Application is dismissed.

**JUDGE**

*Athar Zai*