

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

Cr. Bail Application No. 1901 of 2020

Applicant : Through Muhammad Fahim Zia,
Advocate

The State : Through, Rubina Qadir, D.P.G.

The Complainant : Through Akhtar Hakeem, Advocate

Date of Hearing : 26.04.2021

ORDER

YOUSUF ALI SAYEED, J. - The Applicant, Gul Farooq, son of Parosh Khan, seeks pre-arrest bail in respect of FIR No.71 of 2020 registered at P.S Orangi Town, Karachi (West) under Section 365/380/147/148/149/448/506-B/337-A(I) PPC (the “**FIR**”), at the behest and on the basis of information provided by one Muhammad Riaz Iqbal (the “**Complainant**”).

2. A perusal of the FIR reflects that the Complainant had alleged that he had received information at 11.00 a.m on 25.01.2020 from the Chowkidar posted at his Godown situated at Plot No. 354/A-361, Shah Faisal Mohalla, Sector 7-F, Baloch Goth, Orangi Town, Karachi (the “**Premises**”) that 15 to 20 persons had forcibly entered and occupied the same between 2:30 AM to 3:00 AM and thereafter momentarily abducted him and his son, only to subsequently leave them at an unknown place. It was stated further that upon receiving such information, the Complainant went to the Premises, where he found several persons to be present, including the Applicant, and two persons from amidst their number extended dire threats on show of arms and scared him away, proceeding to then steal two generators and other material and thereafter to telephonically extend extortionate threats from time to time and also engage in aerial firing at the Premises.

3. The Applicant was earlier granted to interim pre-arrest bail subject to furnishing solvent surety in the sum of Rs.50,000/- and a P.R bond in the like amount to the satisfaction of the Nazir, and proceeding for purpose of confirmation, learned counsel for the Applicant invited attention to the contents of the FIR, submitting that the version of events encapsulated therein was vague and tenuous so as to narrate an unbelievable story. He pointed out that whilst the incident was shown to have occurred on 25.01.2020, the FIR had been filed with unexplained delay as belatedly as 25.02.2020. Furthermore, no specific role has been ascribed to the Applicant other than his merely being said to have been present at the Premises on the aforementioned date, with the FIR also being completely bereft of material particulars as to the property allegedly stolen; the dates on which the extortionate calls were made; the identity of the callers and/or the telephone numbers from which such calls originated; as well as the identity/description of those persons who then made aerial firing at the Premises and the relevant date(s) and time(s) of such further incident(s). It was also emphasised that no incriminating articles had been recovered from the Applicant; no empties had been recovered from the Premises to substantiate the allegation of aerial firing, and no independent witness had come forward to support the version of the Complainant as to either the initial incursion or the events that allegedly transpired thereafter. As such, it was argued that the entire parcel of allegations advanced through the FIR were palpably false and malicious, with it being prayed that bail be confirmed.
4. Conversely, learned counsel for the complainant and the learned DPG sought dismissal of the Application, but could only refer to the contents of FIR without being able to point out any incriminating material that served to connect the Applicant with the matter. Furthermore, on a query posed it was conceded by the DPG that the Applicant did not have any prior CRO.

5. Having considered the arguments advanced in light of the material on record, it transpires that under the given circumstances the matter is apparently one that requires further enquiry and at present the aspect of mala fide on the part of the Complainant cannot also be conclusively ruled out. Needless to say, an authoritative determination of the matter would only be possible following proper appraisal of the evidence, which is neither possible nor desirable at this stage, when only a tentative assessment is to be made. However, at present, a case for grant of pre-arrest stands made out, and it for that reason that the interim bail granted to the Applicant was confirmed vide a short Order made in Court upon culmination of the hearing on 26.04.2021, with the Application standing disposed of accordingly.

6. Needless to state that the observations made herein are tentative and ought not to be construed so as to prejudice the case at trial.

JUDGE

Karachi
Dated: 29.04.2021