

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Amjad Ali Sahito

Criminal Bail Application No.453 of 2021

Applicant : Sharifullah S/o Rafiullah
Through Mr. Hashmat Khalid Advocate

Complainant : Farooq Ahmed S/o Awais Ahmed

Respondent : The State
Through Mr. Faheem Hussain,
Deputy Prosecutor General, Sindh
SHO Faisal Rafiq, PS Nazimabad

Date of hearing : 26.04.2021

Date of order : 26.04.2021

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused Sharifullah S/o Rafiullah seeks post-arrest bail in Crime No.224/2019 registered under Sections 392/397/34 PPC at PS Nazimabad, after his bail plea has been declined by II-Additional Sessions Judge, Karachi Central vide order dated 05.03.2021.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicant/accused has mainly contended that before this, the applicant/accused had filed post-arrest bail application before this Court which was dismissed with direction to learned trial Court to decide the case of the applicant/accused on merits. He further contended that after framing the charge, notice was issued to the complainant and he has not identified the present applicant during his evidence. He has invited attention on Page-23 of the file which is a jail record of applicant/accused which shows that he was released in Crime No.150/2019, whereas, Crime No.224/2019 under sections 392/427/34

PPC is pending. He lastly prays for grant of post-arrest bail to the applicant/accused.

4. On the other hand, learned DPG has vehemently opposed for grant of bail to the applicant/accused on the ground that he is a habitual offender and involved in number of cases.

5. Complainant present in person states that he has not identified the applicant/accused in the open Court.

6. I have heard the learned counsel for the parties and have gone through the material available on record. Admittedly, prior to this, bail application of the applicant was dismissed vide order dated 21.09.2020 and thereafter, progress was made and witnesses were examined. However, allegedly the applicant/accused has not been identified in the commission of offence by the complainant. Complainant present in person has also confirmed and submits that he has only identified co-accused.

7. In view of the above facts and circumstances, learned counsel for the applicant/accused has succeeded to make out a case for further inquiry as envisaged under section 497 (2) Cr.P.C. Consequently, the instant bail application is allowed. Applicant/accused named above is enlarged on post-arrest bail subject to his furnishing solvent surety in the sum of Rs.100,000/- (Rupees one lac only) and PR bond to the satisfaction of the learned trial Court.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicants on merits.

JUDGE

Kamran/PA