

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. B.A. No.S-02 of 2022

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DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection.
2. For hearing of main case.

21.02.2022

Mr. Imam Bakhsh Baloch, Advocate for the applicant.

Ms. Rameshan Oad, A.P.G.

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**Muhammad Saleem Jessar, J.**-Through instant application, applicant Muhammad Shahid Jugnu seeks his admission on post-arrest bail in Crime No.214 of 2021, registered at Police Station Tando Adam, under section 489-F PPC. Earlier bail plea preferred by applicant was declined by means of orders dated 08.12.2021, passed by the learned Civil Judge & Judicial Magistrate-I, Tando Adam as well order dated 18.12.2021, penned down by learned Additional Sessions Judge-I, Tando Adam, hence he preferred this bail application for same relief.

2. On 14.02.2022, counsel for complainant was present and received the copy of memo of instant bail application along with its annexures; however, today he is not in attendance on the ground as intimated by Mr. Muhammad Rahim Gaju Advocate, he has stuck in traffic. Since this is a bail matter, hence such practice on the part of counsel for complainant is not appreciable and the bail application is taken up for hearing.

3. Since facts of prosecution case are already mentioned in the F.I.R. as well orders passed by the Courts below and memo of bail application, therefore, no need to reproduce the same here arise.

4. Learned counsel for applicant contends that amount involved in this case is nine lacs, which is not huge one; besides, the offence with which the applicant is charged carries maximum punishment upto 03 years. He further contends that FIR also delayed by 14 to 15 days, therefore, case against the applicant requires further inquiry, hence, he submits, that applicant may be enlarged on bail.

5. Learned A.P.G appearing for the State opposes the bail application on the ground that per CRO the applicant is involved in identical cases, therefore, he is not entitled for any relief at this stage.

6. Heard arguments and perused the record.

7. Per available record, the incident as shown, had occurred on 15.09.2021 whereas report thereof was lodged on 28.09.2021 i.e. with a delay of about 13 days and no plausible explanation has been furnished by prosecution for such an inordinate delay. The case has been challaned, which is now pending before the Court of Ist. Civil Judge & Judicial Magistrate, Tando Adam and the application moved by applicant was turned down in terms of order dated 08.12.2021; the offence with which the applicant stands charged carries maximum punishment up to 03 years, which does not fall within the prohibitory clause of section 497(2) Cr.P.C. The case is being tried before the Court of learned Judicial Magistrate-I, Tando Adam, where in case prosecution succeeds to prove its case even then punishment of more than 03 years cannot be visualized.

8. In these circumstances as well in view of dictum laid down by the Honourable Supreme Court of Pakistan in case of **Muhammad Tanveer v. The State and another** (PLD 2017 Supreme Court 733), the case against the applicant requires further inquiry as envisaged under sub-section (2) to section 497 Cr.P.C. Consequently, the application in hand is allowed. The accused/applicant shall be released on bail upon furnishing solvent surety in the sum of Rs.100,000/- (Rupees one hundred thousand only) and P. R. Bond in the like amount to the satisfaction of the trial Court.

9. Needless to mention that observations made herein above are tentative in nature and would not influence the trial Court while deciding the case on merits.

JUDGE

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