

IN THE HIGH COURT OF SINDH, AT KARACHI

Cr. Bail Application No. **234** of **2022**

Applicant : Sharif s/o. Hasil Khan, through
Mr. Muhammad Ibrahim Abro, advocate.

Respondent : The State, through Mr. Faheem Hussain Panhwar,
D.P.G. a/w complainant Bakhshal Sodhar, S.I.O/
S.I.P. Manzoor Ali Lashari of P.S. Sohrab Goth &
S.I.P. Muhammad Ishaque P.S. SSHIA, Karachi

Date of hearing : 14.04.2022
Date of order : 14.04.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Criminal Bail Application, applicant/accused Sharif s/o. Hasil Khan seeks post-arrest bail in Crime No. 1504/2021, registered at P.S. S.I.T.E. Super Highway Industrial Area, Karachi under section 396, 34, P.P.C. His earlier application for the same relief bearing No. 282/2022 was dismissed by the learned Additional Sessions Judge-I (M.C.T.C.) Malir, Karachi, vide order dated 26.01.2022.

2. It is alleged that, on 29.10.2021 at about 1810 hours at Dua Real Estate, Gharib Nawaz Muhallah, Yousuf Sahib Khan Village, Scheme-33, Karachi present applicant alongwith co-accused Ali Nawaz, Asif and three unknown accsued persons, duly armed with firearms, conjointly committed dacoity, and in the commission of dacoity co-accsued Asif committed murder of Dr. Zain-ul-Abedin, the uncle of the complainant, by causing fire shot at his chest, for that the accused persons were booked in the aforesaid F.I.R.

3. Learned counsel for the applicant contends that that the applicant is innocent and has nothing to do with the alleged offence, who has falsely been implicated in this case by the complainant with mala fide intention and ulterior motives; that there is delay of five days in lodging of the F.I.R. for which no plausible explanation has been furnished by the complainant; that there is no independent witness of the alleged incident; that neither the applicant committed dacoity nor made firing at the deceased and the only allegation against him is that he stopped the vehicle of the deceased; that the applicant is confined in judicial custody since the day of his arrest i.e. 06.11.2021 and police has submitted challan; hence, his custody is no more required by the police for further investigation; hence, he is entitled to the concession of bail.

4. On the other hand, learned D.P.G. opposes the grant of bail to applicant on the ground that the applicant is involved in a heinous offence, who has been nominated in the F.I.R. with specific allegation of facilitating co-accused for committing dacoity with the deceased and causing firearm injury resulting into his death; that the delay in lodging of F.I.R. has satisfactorily been explained by the complainant: that sufficient evidence is available with the prosecution to connect the applicant with the commission of alleged offence; hence, he is not entitled for the concession of bail.

5. I have heard learned counsel for the parties and perused the material available on record with their assistance.

6. It appears that the applicant is nominated in the F.I.R. with specific role of stopping the vehicle of the deceased. The accused persons robbed mobile phone and cash amount from the deceased. The applicant is the resident of the same locality; hence, there appears no case of misidentification. No doubt, the only role assigned to applicant is that he stopped the car of the deceased, yet under section 396, P.P.C. every one of those persons who commit dacoity with murder is liable for the punishment with death, or imprisonment for life or imprisonment for ten years. The applicant has not alleged any enmity for his false implication in this case. The delay in lodging F.I.R. is ipso facto no ground for the grant of bail to an accused in a case wherein he does not claim any enmity with the complainant party. Prima facie, prosecution has sufficient evidence to connect the applicant with the commission of alleged offence. No ground of further inquiry has been made out; hence instant application is dismissed, accordingly.

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

JUDGE

Athar Zai