

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.778 of 2022

Date *Order with signature of Judge*

For hearing of Bail Application.

20.07.2022

None present for the Applicant/accused.

Mr. Siraj Ali Khan Chandio, Addl. Prosecutor General, Sindh.

Complainant Misbah Bibi along with PWs Muhammad Ashiq, Zubair Shakir and Niaz Ahmed, present in person.

ORDER

Muhammad Saleem Jessar, J:- Through this bail application, Applicant Abdul Hafeez seeks his release on post arrest bail in Crime No.852/2021 of P.S Gulistan-e-Jauhar, Karachi, under Section 376 PPC. The applicant preferred his bail plea before the trial Court, which by means of order dated 21.03.2022 was declined; hence, this bail application.

2. Since the facts of the prosecution case are already mentioned in the FIR, which is annexed with Court file, therefore, there is no need to reproduce the same.

3. Intimation issued to counsel for the applicant returned unserved, taken on record.

4. Complainant Misbah Bibi, who at the moment, is victim of the crime, along with her witnesses namely Muhammad Ashiq, Zubair Shakir and Niaz Ahmed, are present in person and file their respective Affidavits whereby they have extended no objection for grant of bail application and submit that they have settled their dispute outside the Court upon intervention of the elders of their community. No objection as well as Affidavits duly sworn in by them in office, are hereby taken on record.

5. Learned Addl. P.G, Sindh appearing for the State, formally opposes the bail application on the ground that the offence is not compoundable; however, could not controvert the fact that victim herself is in attendance before the Court today and has extended her no objection for grant of bail application. Complete set of witnesses is in attendance today and all have extended their no objection.

6. Heard arguments, record perused. No doubt, the offence with which applicant stands charged, is not compoundable; however, the complainant who at the moment is victim, herself extends her no objection, therefore, it cannot be denied particularly at bail stage. As far as, severity of the offence is concerned, prosecution may procure its witnesses before the trial Court at the time of recording of their evidence and if from their evidence any offence comes and prosecution may succeed to prove its charge then the trial Court would be competent to record / pass judgment in the case.

7. At this juncture, in the light of Affidavits duly sworn in by the complainant / victim as well as her witnesses, I am of the opinion that case against the applicant requires further inquiry within the meaning of subsection 2 to section 497 Cr.P.C. Consequently, instant bail application is hereby allowed. Applicant **Abdul Hafeez son of Malik Ghulam Fareed**, shall be released on bail subject to furnishing his solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousands Only) and PR Bond in the like amount to the satisfaction of learned trial Court.

8. It need not to iterate that the observation(s) made hereinabove is/are tentative in nature and shall not prejudice the case of either party during trial. However, the learned trial Court may proceed against the Applicant, if he will be found misusing the concession of bail. Let copy of this order be communicated to learned trial Court through MIT-II.

9. This Criminal Bail Application is disposed of in the terms indicated above.

JUDGE

Zulfiqar/P.A