

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. 324 of 2022

Applicant : Muhammad Amir s/o Muhammad Siddique,
through Mr. Ali Akbar, Advocate

Respondent : The State, through Mr. Malik Sadaqat Khan,
Special Prosecutor, SSGC.

Date of hearing : 05.04.2022
Date of order : 05.04.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant criminal bail application, applicant/ accused Muhammad Amir s/o Muhammad Siddique seeks pre-arrest arrest bail in Crime No. 03 of 2022, registered at P.S. SSGC, Karachi under Section 15 & 24 of the Gas (Theft Control and Recovery) Act, 2016 (herein after as the "Act"). His earlier application for the same relief bearing No. 322 of 2022 was dismissed by the learned Sessions Judge Malir, Karachi, vide order dated 11.02.2022. He was admitted to interim pre-arrest bail by this Court vide order, dated 16.02.2022, now the matter is fixed for confirmation or otherwise.

2. Allegation against the applicant is that he willfully tempered with gas service line for the purpose of theft of gas, for which he was booked in the F.I.R.

3. Learned counsel for the applicant contends that the applicant is innocent and has falsely been implicated in this case; that not the applicant but one Liaquat Ali is the consumer of SSGC and owner of "Liaquat Bakery/Bajwa Dairy", where the alleged theft of gas was being committed, who has been let off by the police in the challan, and the applicant is his servant; that no specific role has been assigned to applicant; that no direct or indirect evidence is available with the prosecution against the applicant; that there is no independent eye witness of the alleged incident; therefore, the guilt of the applicant requires further inquiry, entitling him for the concession of bail.

4. On the other hand, learned Special Prosecutor SSGC resists this application on the grounds that the accused is involved in the offence of theft of gas, causing huge loss to government exchequer and after the investigation he has been challaned under Section 15 and 24 of the Act; that there is no ulterior motive or malice on the part of SSGC officials to implicate the applicant falsely in this case; hence, he is not entitled to extra ordinary relief of pre-arrest bail; that prosecution has sufficient evidence against the applicant to connect him with the commission of alleged offence.

5. Hear and record perused.

6. It appears that, on 11.01.022 at 1100 hrs., complainant Rahim Bux, Deputy Manager SSGC, alongwith other officials of SSGC and police party of P.S. SSGC reached the factory of sweet and bakers, constructed on a plot situated in Katchi Abadi, Sikandar Goth near Masjid Abu Huraira, Sector No. 33-A, Survey No. 70, Scheme No. 33, Karachi. On checking, they found a direct line connected from gas service line through a rubber pipe on that one oven, one stove 40 nozzle, two stoves 32 nozzle and two stoves 24 nozzles were running and bakery items and sweets were being prepared. The complainant disconnected the connection and took into his possession two stoves one 32 nozzle and one 24 nozzle and 5 feet rubber pipe, while oven, one stove 40 nozzle, one stove 32 nozzle and one stove 24 nozzle being fixed could not be taken into possession.

7. As regard the argument of the learned counsel for the applicant that not the applicant but one Liaquat Ali is the consumer of SSGC and the owner of the alleged sweet factory and the applicant is his servant, it appear that the applicant has annexed a copy of a paid bill as annexure "D" at page 61 of the memo of application; perusal thereof shows that it bears the name of one Liaquat Ali as consumer of SSGC, but the same does not pertain to subject plot but to a flat. It also reflects from the record that during investigation, investigating Officer has

recorded that statements of Muhammad Nadeem (*sweet maker/employee of the applicant*) and one Shahnawaz (*resident of the locality*), who have affirmed the fact that the applicant is the owner of the alleged sweet factory.

8. It has already been observed by this Court in the case of *Zahir Shah v. The State (2017 MLD 1076)* that the alleged illegal act of an accused under the prevailing energy crisis may be deemed an offence against the society as a whole, as due to scarcity of gas supply on account of pilferage not only the consumers suffer but also it causes loss to public exchequer, besides, increasing the costs for customers, and also bearing in mind that the interference with gas meters and gas pipelines is also a serious risk to the safety of life and properties of the innocent people.

9. From the tentative assessment of the evidence on record, it appears that the prosecution prima facie has sufficient evidence against the applicant to connect him with commission of alleged offence, punishable with rigorous imprisonment which may extend to ten years. The counsel for applicant has not been able to point out any special feature of the case entitling the applicant to the grant of extra-ordinary concession of pre-arrest bail. Pre-requisites for such concession i.e. malice and ulterior motive, either on the part of complainant or the police are conspicuously missing in the case. Accordingly, this application is dismissed. The interim bail granted to accused, vide order dated 16.02.2022, stands recalled.

10. 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 accused on merits.

JUDGE

Athar Zai