

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2268 of 2022

Applicant : Nawab Ali
Through Mr. Haji Akbar, advocate.

Respondent : The State
Through Mr. Khadim Hussain,
Addl. Prosecutor General, Sindh

Complainant : Ibrar Ali Through Syed Zain-ud-Din Agha,
advocate

Date of hearing : 29.12.2022

Date of order : 29.12.2022

ORDER

ADNAN-UL-KARIM MEMON, J -- Through this Bail Application, the applicant/accused seeks post-arrest bail in Crime No.574/2020 under Section 324 PPC, registered at PS Pirabad after his bail plea has been declined by the learned II-Additional Sessions Judge Karachi West vide order dated 31.10.2022.

2. The allegations against the applicant are that on 15.12.2020 in connivance with his accomplice's attacked on complainant with a knife causing injury on the left side stomach and also on the left-hand finger, such report of the incident was lodged at PS Pirabad, Karachi.

3. Haji Akbar, learned counsel for the applicant has argued that the occurrence took place in the market area but no private person was taken as a prosecution witness and all the witnesses are the relatives and brothers of the complainant. He further argued that the MLO report was issued on 15.12.2020 but till today no final description in the medical report concerning the nature of the injury has been submitted before the court. He further argued that the complainant did not receive any injury nor injury was shown on the vital part of the body. Lastly, he prayed for allowing the bail application.

4. Mr. Khadim Hussain, learned Addl. Prosecutor General, Sindh Assisted by the learned counsel for the complainant has supported the impugned order passed by the learned trial court while rejecting the bail plea of the applicant. Learned counsel for the complainant has argued that the applicant / accused is nominated in the FIR with a specific role

and the medical report of the complainant is available on record. He prayed for the dismissal of the instant bail application.

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

6. Tentative assessment of the record reveals that the alleged incident took place on 15.12.2022 and the same was reported on the very day and the applicant was arrested on 21.08.2022 wherein he was shown to have been identified by the complainant and subsequently brought before the medico-legal officer Abbasi Shaheed Hospital in an injured condition on 23.08.2022. The plea taken by learned counsel for the applicant that there was a scuffle between the parties and the applicant was injured at the hands of the complainant, however, he was not provided medical treatment and subsequently shown arrested on 21.08.2022 and produced before the MLO who opined the injures No.1 and 2 as Shuja-e-Khafifa. To see who is the aggressive party which is for the trial Court to determine at the time of recording of evidence.

7. Prima-facie, no recovery has been shown from the applicant, which requires further inquiry into the guilt of the applicant as to whether he participated in the alleged offense and caused Churri blows to the complainant or otherwise, it is for the trial Court to look into this aspect after recording the evidence, within a reasonable time.

8. At this stage, learned counsel pointed out that witness Muhammad Ilyas filed an affidavit before the trial court to the effect that at the time of the alleged incident, he only heard hot words, however, did not see Nawab Ali and other witnesses as well as Akhtar Ali at the spot but the police recorded his statement under Section 161 Cr. P.C. on 15.12.2020 with a different story, which requires further inquiry.

9. In view of the forgoing, I am of the tentative view that the case of the present applicant calls for further inquiry in terms of Section 497(2) Cr.P.C.

10. For the aforesaid reasons, the applicant Nawab Ali is admitted to post-arrest bail in F.I.R No.574/2020 under Section 324 PPC, registered at PS Pirabad, Karachi, subject to furnishing surety in the sum of Rs.200, 000/- (Rupees Two Hundred Thousand) and P.R Bond in the like amount to the satisfaction of the trial Court. However, the learned trial Court shall take pains to record statement of complainant, instantly; and if sufficient incriminating material is brought on record against the

applicant, the trial Court shall be at liberty to cancel the bail of the applicant without referring the matter to this Court.

11. Needless to mention here that the observations made hereinabove are tentative and shall not affect the trial Court to decide the matter on merits.

JUDGE

Shahzad Soomro