ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI Crl. Bail Application No. 2074 of 2022

Date Order with signature of Judge For hearing of bail application Date of hearing: 07.12.2022

07.12.2021

Date of order:

Mr. Ashfaq Ahmed Shah advocate for the applicant Ms. Rahat Ahsan, Additional P.G. Sindh M/s Muhammad Jamil and Sarosh Jamil advocates for complainant

<u>Salahuddin Panhwar, J.-</u> It is alleged that applicant along with one more culprit, in furtherance of their common intention, fired at complainant and his wife Mariyam with intention to commit their murder, which hit in the eye of Mst. Mariyam as well as to one pedestrian namely Ameer Ali at his chest, the accused also beaten Muhammad Irfan, resident of the street and thereafter, they fled away from the place of incident, hence the present case was registered against them.

2. After having refused pre-arrest bail, the applicant has approached this Court by preferring the instant bail application under Section 498 Cr.P.C.

3. Learned counsel for the applicant, *inter alia*, contended that the applicant has been falsely implicated in the present case by the police at the instance of the complainant; that complainant and his wife are indulged in criminal activities and on raising objection, the complainant attacked on the applicant in which scuffle the applicant has also received injuries on his foot and instead of registering the FIR of the applicant, the police in collusion with the complainant party lodged the present case; that previously the wife of the complainant has also lodged FIR against the applicant hence his false implication in the present case cannot be ruled out; that no specific role has been assigned to the applicant in the FIR, hence he prayed for grant of pre-arrest bail to the applicant.

4. In contra, learned Addl. P.G duly assisted by learned counsel for the complainant contended that it is a day time incident wherein the applicant played an active role in causing fire shot injuries to the wife of the complainant and one pedestrian, in which incident the wife of the complainant completely lost her eye; that the applicant is nominated in the FIR and the P.Ws have implicated the applicant in their statements recorded under Section 161 Cr.P.C and there a number of cases of heinous nature are registered against the applicant, hence they sought for dismissal of instant bail application.

5. Heard and perused the record.

6. Record reflects that the alleged occurrence has taken place in the broad day light. The parties are unknown to each other. There is specific allegation against the applicant of causing fire shot injuries to the wife of the complainant as well as one pedestrian together with the co-accused. Record reflects that in the alleged incident, eye of the wife of the complainant has totally damaged/lost. The applicant is also involved in number of other cases, hence he is also habitual offender. Grant of prearrest bail is an extraordinary remedy, rooted into equity, to protect the honour and freedom of the innocent in criminal cases actuated by abuse of process of law for oblique motives and purposes; this protection cannot be extended in every run of the mill criminal case without grievously hindering the investigative process as held in the case of Abdul Aziz Memon vs. The State (2020 SCMR 313). Prima-facie, there is sufficient material available on record against the applicant to connect him with the commission of alleged incident, hence he cannot be granted the relief of anticipatory bail to subvert or undermine investigative procedure/process that essentially includes an arrest to bring the statutory exercise to its logical end for effective and meaningful prosecution of the offense through the collection of information/ evidence.

7. For the foregoing reasons, I am of the considered view that case of the applicant does not call for grant of extra-ordinary relief under Section 498 Cr.P.C. Accordingly, instant bail application of the applicant is **dismissed**. Resultantly, interim pre-arrest bail already granted to the applicant is hereby recalled.

8. Needless, to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of applicant on merits.

9. These are the reasons for the short order announced on 07th December 2022.

JUDGE