

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
Criminal Bail Application No. 2186 of 2022

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Date	Order with signature of Judge
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Applicant	:	Alamgir s/o Abdul Razzak through Mr. Shamsul Hadi, advocate.
Respondent	:	The State. through Ms. Rahat Ehsan Addl. P.G.
<b><u>Date of hearing:</u></b>	:	08 <sup>th</sup> December 2022.

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**Salahuddin Panhwar, J.-** It is alleged that applicant with rest of the culprits in furtherance of their common intention committed robbery in the Sindh Balouchistan Fish Mill situated at Ibrahim Hyderi and also caused stone/cement block injuries to watchman namely Ligouchun, who eventually died during treatment at Hospital, hence the present case was registered.

2. Learned counsel for the applicant, inter alia, has contended that the applicant is innocent and has falsely been implicated in this case by the police; that FIR has been lodged with delay of 09 days for which no plausible explanation has been furnished; that co-accused have already been granted bail and the case of the applicant is identical to the cases of co-accused; that nothing has been recovered from the possession of the applicant and no material is available on record to connect the applicant with the commission of alleged offence, hence he sought for his release on bail. He relied upon cases of (i) Muhammad Suleman vs. Riasat Ali and another (2002 SCMR 1304), (ii) Qamar alias Mitho vs. The State and others (PLD 2012 SC 222), (iii) Faiz Jalani alias Imran Mama vs. The State and others (2017 SCMR 61), (iv) Muhammad Iqbal vs. The State and others (2017 SCMR 1932), (v) Hussain Ahmed vs. The State and others (2021 SCMR 1263), Muhammad Naeem Hassan vs. State (2022 SCMR 523), and Mubarak vs. The State (2018 YLR 1655).

3. On the other hand, learned Addl. PG has vehemently opposed for grant of bail to the applicant while stating that delay in lodging of the FIR is not sufficient for grant of bail; that recovery of robbed water motor and purse containing color copy of CNIC have been effected from the applicant and the

case of co-accused is distinguishable from that of co-accused, as such, he is not entitled for concession of bail.

4. Heard and perused the record.

5. Record reflects that applicant and another co-accused were arrested in Crime No. 669 and 670 of 2021 under Section 23(1)(a) of Sindh Arms Act, 2013 and during interrogation, the applicant and co-accused disclosed their involvement in the present case and police has also effected recovery of water motor and purse containing colour copy of CNIC of the complainant from them. Learned counsel for the applicant has contended that recovery of water motor has been effected from the co-accused and not from the applicant, in my opinion, it is an issue that cannot be attended without going beyond the barriers of tentative assessment, an exercise prohibited by law. Learned counsel emphasized that two other co-accused have been admitted to bail, hence the applicant is also entitled to be released on bail on principle of rule of consistency. Perusal of record reflects that case of co-accused, who have been granted bail, is distinguishable from the case of the present applicant, hence such principle is not applicable to the present case. Learned counsel for the applicant has not been able to point out any enmity or ill-will against the complainant or the prosecution to believe that the applicant has falsely been implicated in such heinous offence, which is entailing capital punishment. With regard to the delay in lodging of FIR, the same alone is never considered circumstance sufficient for grant of bail in a case carrying capital punishment. Reliance is placed on the case of **Haji Guloo Khan v. Gul Daraz Khan and others (1995 SCMR 1765)**, the Honourable Supreme Court has as under:

*“No doubt, the benefit arising from the delay in lodging the F.I.R goes to the accused which could also be taken into consideration along with other circumstances in the case at the stage of deciding the bail application, but delay in lodging the F.I.R alone is never considered a circumstance sufficient for grant of bail in a case involving capital punishment.”*

6. It is well-settled that at bail stage only tentative assessment is to be undertaken and no deeper appreciation is required. *Prima facie*, sufficient material is available on record to connect the applicant with the commission of the offence.

7. As to the case laws cited by the learned counsel for the applicant, in support of his submissions, the facts and circumstances of the said cases are distinct and different from the present case, therefore, none of the precedents

cited by the learned counsel for the applicant are helpful to the case of the applicant.

8. In these circumstances, no case for grant of bail at this stage is made out, consequently, the instant bail application merits no consideration, which is dismissed accordingly.

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

These are the reasons for the short order announced on 08<sup>th</sup> December 2022.

JUDGE

Sajid..