

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No. 1614 of 2022

Date Order with signature of Judge

For hearing of bail application

18th October 2022

Mr. S.M. Nehal Hashmi advocate for applicant
Mr. Abrar Ali Khichi Additional Prosecutor General
Mr. Shiraz Ahmed Bhatti advocate for the complainant

Salahuddin Panhwar, J.-This is second bail application filed by applicant before this Court. In the first bail application bearing No.1627/2020, the counsel for the applicant, after arguing at some length, did not press the same, which was dismissed as not pressed vide order dated 15.02.2021, with direction to the learned trial Court to conclude the trial within 01 month.

2. Counsel for the applicant contended that compliance of the directions issued by this Court vide order dated 15.02.2021, regarding conclusion of trial have not been complied with; that prosecution examined its witnesses but still evidence of some of the witnesses is yet to be recorded. Learned counsel for the applicant has also attempted to argue the instant bail application on merits.

3. On the other hand learned Additional Prosecutor General for the state while opposing the instant bail application has contended that first bail application of the applicant was dismissed as not pressed with direction to the learned trial court to conclude the trial within one month; that non-compliance of the directions could not be treated as valid ground for grant of bail to the applicant; no fresh ground has been urged by the counsel for the applicant in the instant bail application, hence instant bail application merits dismissal.

4. Heard and perused the record.

5. With regard to the arguments of learned counsel for the applicant on merits, record reflects that while hearing first bail application, the learned counsel for the applicant was heard at some length and thereafter, he did not

press the bail application and prayed for direction to learned trial Court to conclude the trial within shortest possible time. In the case reported as *Nazir Ahmed and another vs. The State and others (PLD 2014 S.C 241)*, the Honourable Apex Court has held that in a case of withdrawal of an earlier application for bail after addressing and hearing of some or all the arguments on the merits of the case, no subsequent application for the same relief can be filed before or entertained by the same court unless such subsequent application is based upon a fresh ground, i.e. a ground which was not available or in existence at the time of disposition of the earlier application, however in the present case learned counsel for the applicant has failed to point out any fresh ground, which was not available to the applicant at the time of hearing of his first bail application. He nevertheless emphasized that directions given by this Court while disposing of first bail application of the applicant have not been complied with, as such, the applicant is entitled to bail on this ground alone. I am unable to subscribe to such submission of the learned counsel for the applicant. The issuance of directions for the trial Court to conclude cases within some specified period are only meant/ aimed to expedite proceedings of the cases against the accused and not to arm him with so-called new ground for bail in case of non-compliance of such directions. In case of *Nisar Ahmed vs. The State and others (PLD 2016 S.C 11)*, the Hon'ble Apex Court has held that non-compliance of the directions issued to the trial Court to conclude the trial expeditiously or within some specified time cannot be considered as valid ground for grant of bail to an accused, being alien to the provisions of section 497, Cr.P.C, therefore, in these circumstances, unless some fresh ground is shown by the accused for consideration of his request for grant of bail afresh, the accused cannot be allowed to repeat such attempts. Besides, in present case material witness have been examined by the trial Court, hence, delay is not caused by the prosecution.

7. For the foregoing reasons, the instant bail application is misconceived, hence the same is **dismissed**. However, it appears that trial has commenced, the evidence of material witnesses has been recorded and some of the witnesses are yet to be examined, therefore, it would be in the interest of justice to direct the learned trial court to conclude the trial within one month.

JUDGE