

IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-760 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
------	-------------------------------

<u>05.09.2022</u>	For orders on office objection. For hearing of main case.
-------------------	--------------------------------------------------------------

Mr. Mashooque Ali Mahar advocate for the applicants.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

Amjad Ali Sahito, J: - Through instant bail application, the applicants / accused namely, Muhammad Nawaz alias Karo and Naseer Ahmed seek post-arrest bail in Crime No.05 / 2022 for the offence under section 395, 342, 506/2 PPC registered at PS Thebat, District Jamshoro. Earlier bail plea of the applicants / accused has been turned down by learned Additioanl Sessions Judge Sehwar vide order dated 18.07.2022.

2. The details and particulars of the FIR are already available in the bail application and FIR, the same could be gathered from the copy of the FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicants/accused has mainly argued that the applicants / accused are innocent and have falsely been implicated in this case with *mala fide* intention; that there is inordinate delay of one year in lodgment of FIR without plausible explanation; that the applicants / accused filed application under section 22-A & B Cr.P.C. against the complainant party, as such, there is enmity between the parties and due to personal grudge the applicants / accused have implicated falsely; that there is no independent witness cited in the case; that the applicants / accused will not abscond nor will tamper with the prosecution evidence. Learned counsel has contended that this is a case of further inquiry and prayed for grant of bail to the applicants / accused by relying upon the cases reported in 2016 P Cr.L.J 1206, 2022 P Cr.L.J 198, 2014 Y L R 1319, 2017 Y L R Note 225, 2018 YLR Note 3, 2013 M L D 1249, 2012 M L D 814 & 2017 M L D 1891.

4. On the other hand, learned A.P.G. Sindh has opposed the grant of bail and submitted that delay in FIR has been properly explained and accused Muhamamd Nawaz alias Karo is involved as many as 38 cases as he

is habitual offender, therefore, the applicants / accused are not entitled for grant of bail.

5. I have heard the learned counsel for the parties and perused the record with their able assistance. It appears that the FIR in respect of reobbery of Toyota Corolla Car including Mobile phone, driving license and cash of Rs.65000/- was lodged by the complainant against unknown persons, which manifestly shows that there is no *mala fide* on the part of complainant to implicate the accused falsely. Thereafter the complainant started to find the robbed property and accused and came to know the applicants / accused and co-accused to be the culprits of offence, who on approach kept the complainant on false hopes to return back the case property and finally refused the return the same. As such, the complainant lodged FIR with proper explanation. PWs have fully implicated to the accused in their statements recorded under section 161 Cr.P.C. Involvement of applicant / accused Muhamamd Nawaz alias Karo in 38 cases prima facie confirms that the applicants / accused are habitual offenders. No enmity, illwill or *mala fide* has been brought on the record to believe that the accused has been booked in this case falsely. The case law relied by learned counsel is not applicable with the facts and circumstances of instant case. Accordingly, learned counsel for the applicants / accused has failed to make out a case for grant of bail, therefore, the instant criminal bail application is **dismissed**.

6. 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 applicants / accused on merits.

JUDGE