

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Amjad Ali Sahito

Criminal Bail Application No.1198 of 2022

Applicant : Irfan S/o Abdullah
None present.

Respondent : The State
Through Mr. Siraj Ali Khan, Addl.
Prosecutor General, Sindh

Date of hearing : 30.01.2023

Date of order : 30.01.2023

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks post-arrest bail in FIR No.142/2020 registered under Sections 302 PPC at PS Jackson, after his bail plea has been declined by Addl. Sessions Judge-VII/MCTC-02, Karachi Central vide order dated 12.02.2022.

2. The details and particulars of the FIR are already available in bail application and the FIR, as such, need not to reproduce the same hereunder.

3. None present for the applicant. No intimation is received. The instant bail application was presented on 09.06.2022. Since then no progress has been made. Learned counsel for the applicant has not shown his appearance on last several dates of hearing.

4. Learned Addl. P.G. submits that the trial is at verge of conclusion, as such, the instant bail may be dismissed.

5. Heard and perused the material on record.

6. Admittedly, name of the applicant/accused does not transpire in the FIR but eyewitness Mst. Parveen in her 161 Cr.P.C. statement implicated the applicant/accused in the murder of deceased Javed. Further, after the arrest of applicant/accused, he led the police party for recovery of crime weapon, which was recovered on his pointation and the same was sent to Expert,

which report received as positive. Further, the charge has been framed and PWs have already been examined. It is settled principle of law that when the witnesses have been examined and the trial is at final stage of announcement of judgment then the Courts should not grant or cancel the bail. The reliance is placed in the case of **Rehmatullah v. The State (2011 SCMR 1332)**; wherein the Hon'ble Supreme Court of Pakistan has held that:

***“3. Heard. The petitioner was granted bail on 21-11-2008, which was cancelled by the learned High Court on 19-3-2009, when according to the order itself the trial was at the verge of conclusion. Learned Additional Prosecutor-General stated that now only one or two witnesses are yet to be recorded. The courts should not grant or cancel bail when the trial is in progress and proper course for the courts in such a situation would be to direct the learned trial Court to conclude the trial of the case within a specified period. Reference may be made to Haji Mian Abdul Rafique v. Riaz ud Din and another (2008 SCMR 1206). We find that the impugned order was passed in violation of the law, therefore, we cannot subscribe to it. In view whereof, we are persuaded to allow this petition and direct the learned trial Court to conclude the trial of the case expeditiously.*”**

4. For the foregoing reasons, present petition is converted into appeal, allowed and bail granting order dated 6-4-2009, passed by this court, is confirmed. However, learned trial Court is directed to conclude the trial of the case within a period of two months from the date of receipt of copy of this order.”

7. In view of the above and taking guideline from the cited case, the instant Bail Application is dismissed. However, the learned trial Court is directed to expedite the matter and conclude the same preferably within three (03) months from the date of receipt of this order.

8. 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.

JUDGE