

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Amjad Ali Sahito

Criminal Bail Application No.2111 of 2022

Applicant : Asad (alias) Sono S/o Muhammad Zaman
through Mr. Moula Bux Bhutto, Advocate

Complainant : Muhammad Rafique S/o Muhammad
Siddique through Mr. Munaf Memon,
Advocate

Respondent : The State
Through Ms. Rahat Ahsan, Addl.
Prosecutor General, Sindh alongwith SIP
Muhammad Nasir

Date of hearing : 02.01.2023

Date of order : 02.01.2023

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks post-arrest bail in FIR No.22/2022 registered under Sections 395 PPC at PS Preedy, Karachi, after his bail plea has been declined by Addl. Sessions Judge-VI, Karachi South vide order dated 28.09.2022.

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. Learned counsel for the applicant/accused has mainly contended that the applicant/accused is innocent and has falsely been implicated in this case; that name of the applicant/accused does not transpire in the FIR and no specific role has been assigned against him; that police malafidely has shown arrest of the applicant/accused in this case when he was already in their custody in another crime. He lastly prays for grant of post-arrest bail to the applicant/accused.

4. On the other hand, learned Addl. P.G. as well as learned counsel for the complainant opposes for grant of post-arrest bail to

the applicant/accused on the ground that the trial is at the verge of conclusion as all the witnesses in this case have already been examined.

5. I have heard the learned counsel for the parties and have gone through the material available on record.

6. Admittedly, the name of the applicant/accused does not find place in the FIR and no specific role has been assigned against him. However, 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, learned counsel for the applicant has failed to make out a case for grant of post-arrest bail. Accordingly, the instant Bail Application is dismissed. However, the learned trial Court is directed to expedite the matter and conclude the same preferably within forty five (45) days 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

Kamran/PA