

ORDER SHEETIN THE HIGH COURT OF SINDH KARACHI**Cr. Bail Application No. 470 of 2023**

DATE**ORDER WITH SIGNATURE OF JUDGES**

For hearing of Bail Application**17.05.2023**

Rana Muhammad Arshad Advocate along with Applicant
Mst. Razia

Sagar Lal, Complainant in person

Mr. Talib Ali Memon, Assistant Prosecutor General

SIP Muhammad Ali Baloch of PS. Frere, I.O.

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Razia has sought pre-arrest bail in crime number 126 of 2022 registered under sections 381 and 34 P.P.C. at the Frere police station. Earlier, her application seeking bail was dismissed by the learned 10th Additional Sessions Judge, Karachi South.

2. A background to the case is that the aforementioned F.I.R. was registered on 20.09.2022 on the complaint of Saghar Lal. Saghar reported that he had hired a maid by the name of Ayesha and that on 16.09.2022 he discovered that certain valuables of his were missing. He nominated Ayesha and an unknown lady as the accused. The applicant is the "unknown" lady.

3. I have heard the learned counsel for the applicant and the learned APG.

4. The only evidence against the applicant is that she was seen with Ayesha leaving the apartment building in which the apartment of Saghar Lal was situated. This to me does not necessarily impute guilt as the applicant too worked as a cleaning lady in the same building. Two cleaning ladies leaving together from the building in which they work would not make them accomplices in a crime. While Saghar Lal claims that he has video footage of the 2 ladies leaving the building together, the investigating officer of the case, conceded that the footage was not seized by him under a memo. He however produced an unsealed USB from his pocket at the hearing and said that the CCTV footage was on that USB and had been given to him by the complainant. Simultaneously, he very frankly also conceded that an unsealed USB presented in the manner that he was, would impact greatly on the authenticity of what it contained. He also confirmed that the applicant had co-operated during investigation but that he was unable to collect any further evidence against her. He acknowledged that no recovery had been made from the applicant.

5. Section 381 P.P.C. under which the applicant is charged applies in cases where theft is committed by a servant or a clerk from his employer. In the current case, it is an admitted position that the applicant was not engaged in any capacity by the complainant. Hence, the charge against her would be under section 34 P.P.C. at best. There is no evidence on

record to show that any pre-planning or pre-meeting of the minds took place.

6. The case against the applicant being one of further inquiry, the interim pre-arrest bail granted to her earlier, is confirmed on the same terms and conditions.

JUDGE