

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No.1053 of 2023

Applicant : Muhammad Imran s/o. Taj Muhammad,
through Mr. Afzaal Ahmed, Advocate

Respondent : The State, through Mr. Zahoor Ahmed
Shah, Additional Prosecutor General.

Date of hearing : 12.06.2023
Date of order : 12.06.2023

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant criminal bail application, applicant/accused Muhammad Imran s/o. Taj Muhammad seeks post-arrest bail in Crime No.99/2023, registered at P.S. Mochko, Karachi, under Section 353/324, P.P.C. His earlier application for the same relief bearing No.1550/2023 was heard and dismissed by the learned Addl. Sessions Judge-XI, Karachi-West vide order, dated 20.04.2023.

2. It is alleged that, on 22.03.2023, ASI, Muhammad Abbas of P.S. Mochko, Karachi was on patrolling duty along with his sub-ordinate staff in a police mobile; at 0930 hours, he saw the applicant coming rashly and suspiciously on a motorcycle bearing No.KPA-7300, maker Suzuki, Color Black, Model-2021. ASI-Muhammad Abbas signaled the applicant to stop but he fired on police party with his pistol to deter them from discharging of their duty and with intention to commit their *qatl-i-amd*. In retaliation, police party also made fire on the applicant who sustained injury on his leg and fell down on the ground; he was apprehended by the police and booked in the instant F.I.R.

3. Learned counsel for applicant has contended that the applicant is innocent and has falsely been implicated in this case by the police

malafidely; that the place of alleged incident is a busy area but no private person has been cited as witness by the police; that on 21.03.2023 at about 1700 hours, the applicant was sitting at Juma Khan Hotel at Hub Chowki, where some persons in plain clothes came and took the applicant with them; on the next day, he was shown as an accused of a fake encounter by foisting upon him an unlicensed pistol and a stolen motorcycle; that non has received from either side any fire-arm injury though there was allegedly exchange of fires between the applicant and the police party, which make the case against the applicant as one of further inquiry entitling him for grant of bail.

4. Conversely, Learned Addl. Prosecutor General has objected to the grant of this bail application on the ground that sufficient material is available against the applicant to connect him with the commission of alleged offence, who was arrested from the spot and having in his possession one unlicensed pistol and a stolen motor-cycle.

5. Heard the learned counsel for the parties and perused the material available on record.

6. Applicant is confined in judicial custody since the day of his arrest i.e. 22.03.2023. After investigation, police has submitted the challan against the applicant; hence, his custody is no more required by the police for further investigation. Offence under section 353, P.P.C. is bailable under the schedule of offences. Although the alleged offence under section 324, P.P.C. attracts the prohibitory clause of section 497(1) of Cr. P.C., yet it is an admitted position that no one from police party has sustained injury in the alleged encounter. Even no scratch has been received by any of the members of the police party. Similarly, no bullet mark has been found on the police mobile. Under the circumstances, it is yet to be determined as to whether the case of the

applicant falls within the purview of Section 324, P.P.C or not, which is to be decided at the time of trial by the trial Court. Hence, I am of the view that the case of the applicant calls for further enquiry as envisaged under sub-section (2) of Section 497, Cr. P.C.

7. I, therefore, allow this application by admitting the applicant to bail, subject to his furnishing solvent surety in the sum of Rs.100,000/- (*Rupees One Lac Only*) and PR Bond in the like amount to the satisfaction of the trial Court.

8. Above are the reason of my short order dated 12.06.2023.

Abrar

JUDGE