

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No.S-708 of 2022

(Sarfranz @ Rajib Mari Vs. The State)

1. For Orders on office objection.
2. For hearing of Bail Application.

27-11-2023.

Mr. Ghulam Sarwar Phulpoto, advocate for the applicant.

Mr. Aftab Ahmed Shar, Additional P.G for the State.

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Irshad Ali Shah, J. It is alleged that the applicant with rest of the culprits by making trespass into house of complainant Muhib Ali by night committed theft of his gold ornaments and other belonging and on resistance caused fire shot injures to PWs Javed Ali and Muharram Ali, for that the present case was registered.

2. On having been refused post arrest bail by learned IInd Additional Sessions Judge, Khairpur; the applicant has sought for the same from this Court by way of instant Crl. Bail Application under section 497 Cr.P.C.
3. It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the complainant party; FIR of the incident has been lodged with delay of about three days; there is no independent witnesses to the incident and applicant is in custody for more than two years; therefore, he is entitled to be released on bail on point of further inquiry.
4. Learned APG for the State has opposed to release of the applicant on bail by contending that the offence is affecting the society at large.
5. Heard arguments and perused the record.

6. The applicant is named in the FIR with an allegation that he with rest of the culprits by making trespass into the house of the complainant and committed theft of his belonging and caused fire shot injuries to PWs Javed Ali and Muharram Ali. The specific allegation of causing fire shot injury to PW Javed Ali is attributed to the applicant. On arrest, from the applicant has been secured the pistol which he allegedly used in commission of the incident same has been matched with the empty secured from the place of incident. In that situation, it would be premature to say that the applicant being innocent has been involved in this case falsely by the police at the instance of complainant party. The delay in lodgment of the FIR is well explained in FIR itself, same even otherwise could not be resolved by this Court at this stage. The complainant and his witnesses could not be disbelieved by this Court only for the reason that there was no independent witness to the incident. It was night time incident. It was none of the job of anyone else to have entered into the house of the complainant only to see the occurrence. The complainant and his witnesses are natural witnesses to the incident. As per the progress report furnished by learned trial Court, the applicant has been found defeating the disposal of the case; therefore, in such situation he could claim his release on bail for the reason that he is in custody for more than two years. There appear reasonable grounds to believe that the applicant is guilty of the offence with which he is charged and no case for his release on bail is made out.

7. In view of above, the instant CrI. Bail Application is dismissed.

J U D G E