

HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

Cr. Bail Application No.D-104 of 2023

[Mst. Asiya versus The State]

Before:-

Justice Mrs. Kausar Sultana Hussain
Mr. Justice Khadim Hussain Soomro

Applicant : Through Mr. Irfan Khaskheli advocate
Complainant : In person
The State : Through Mr. Siraj Ahmed Bijarani, Assistant P.G
Date of hearing : 16.01.2024
Date of Order : 16.01.2024

ORDER

KAUSAR SULTANA HUSSAIN J:- Applicant Mst. Asiya W/o Muhammad Javed seeks her admission on post-arrest bail in Crime No.69 of 2023 registered at P.S Kadhan for offences punishable under Sections 506/2, 384, 292 and 406 PPC read with Section 6-K & 7 of Anti-Terrorism Act 1997. She had raised the same plea before learned trial Court, however, it was turned down vide Order dated 14.11.2023.

2. Facts of the FIR find sufficient elaborate in memo of bail application as well as impugned order, as such there is no need to reproduce the same for the sake of brevity. However, the allegation, per FIR, against the present applicant is that she alongwith co-accused had blackmailed the daughter of complainant and threatened her and also grabbed seven (07) tola gold from her on account of such blackmailing and threats.

3. Learned counsel for the applicants argued that applicant is innocent and has falsely been implicated in present crime; that no such incident had taken place and the entire storey is concocted one; that there is inordinate delay in lodgement of FIR and even no specific role has been attributed to present applicant and that alleged recovery of gold is foisted one as both parties are closed relatives and as such complainant has managed the recovery alongwith Investigation Officer. In support of his arguments he relied upon the case laws reported in 2023 SCMR 887 and PLD 2022 SC 764.

4. Conversely, learned Assistant P.G, assisted by Complainant, opposed the bail application and states that on account of blackmailing and harassment of applicant and co-accused the daughter of complainant is suffering from mental

agony and fear, which is equal to creating terror; that recovery of some gold has been effected on the pointation of present applicant and that applicant is nominated in FIR with specific role and offences are non-bailable.

5. We have heard the learned counsel for the applicant, Complainant as well as learned A.P.G and have also gone through the record with their able assistance.

6. The only allegation against the present applicant is that she alongwith co-accused has blackmailed and harassed the daughter of the Complainant, however, at this stage there is no material on record to substantiate the said allegation, as the same is yet to be determined by the learned trial Court after recording of evidence of parties. Record shows that final challan has been submitted and as such applicant is not required for further investigation. Further the applicant is lady and behind the bar since 06.10.2023 without any progress in trial. The Hon'ble Supreme Court of Pakistan in the case of Mst. GHAZALA versus The State [2023 SCMR 887] has held that:

“First proviso to section 497(1), Cr.P.C. makes the power of the court to grant bail in the offences of prohibitory clause of section 497(1) alleged against an accused under the age of sixteen years, a woman accused and a sick or infirm accused, equal to its power under the first part of section 497(1), Cr.P.C. It means that in cases of women accused etc. as mentioned in the first proviso to section 497(1), irrespective of the category of the offence, the bail is to be granted as a rule and refused only as an exception in the same manner as it is granted or refused in offences that do not fall within the prohibitory clause of section 497(1), Cr.P.C. The exceptions that justify the refusal of bail are the likelihood of the accused, if released on bail: (i) to abscond to escape trial; (ii) to tamper with the prosecution evidence or influence the prosecution witnesses to obstruct the course of justice; and (iii) to repeat the offence.”

7. In view of above, we while relying upon the reported case, supra, allow this bail application and in consequence whereof admit the applicant on bail, subject to furnishing solvent surety in the sum of Rs.1,00,000/- (Rupees One Lac Only) and a P.R Bond in the like amount to the satisfaction of learned trial Court. It is, however, observed that learned trial Court is competent to take necessary action against the applicant in accordance with law without making any reference to this Court, in case she misuse the concession of bail at any stage.

8. Needless to mention here that observations made above are tentative in nature and the same shall not prejudice the case of either party at trial.

Captioned bail application stands disposed of accordingly.

JUDGE

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