

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Crl. Bail Application No. S- 224 of 2023.

Date	Order with signature of Judge
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For Hearing of Bail Application.

12-06-2022.

Mr. Nisar Ahmed Kanasiro Advocate for applicant.
Mr. Zulifqar Ali Jatoi Addl.P.G.

O R D E R

AMJAD ALI BOHIO, J:- The applicant has filed this bail application after the dismissal of his previous bail application by the Court of Additional Sessions Judge-IV, Khairpur. The previous application was filed in relation to Crime No.20/2023, registered at Police Station Kotdiji, District Khairpur, for offenses under Section 324, 353, and 34 of the Pakistan Penal Code (PPC).

2. The allegations against the applicant in the aforementioned offense states that during an encounter on 03.02.2023 at 0430 hours, a police party led by SIP Muhammad Aslam Laghari arrested him. The applicant sustained firearm injuries on his knee and calf, which were through and through. Additionally, during the arrest, the police recovered a pistol along with a magazine containing 02 live bullets.

3. The learned counsel representing the applicant has argued that the encounter lasted for six minutes, during which neither any police official sustained injuries nor, any bullet hit the police vehicle present at the scene. The incident took place during daylight hours in a public location, specifically beside the Mango garden of Kanasira, yet no witnesses were associated who could attest to the event. The trial court's decision to dismiss the bail application was based solely on the accused's involvement in Crime No.19/2023, which should not be a sufficient ground to deny bail in the present offense, especially when all the prosecution witnesses are police officials. Furthermore, the investigation of the case has been completed, and the applicant is no longer required for further investigation.

4. The learned Additional Public Prosecutor (A.P.G) representing the State has opposed the current bail application, citing the involvement of the applicant in a heinous offense of rape committed against various girls. The prosecutor alleges that the applicant also recorded nude videos

of the victims and shared them on social media. Furthermore, they highlight that a separate case, Crime No.19/2023, has been registered against the applicant at Police Station Kumb. The prosecutor concludes by stating that the applicant is not deserving of bail.

5. Heard and perused the record.

6. During the encounter with the police party, which lasted for a significant duration, it is noteworthy that not a single bullet hit any police official or the police vehicle present at the scene. The incident took place in broad daylight at a Mango garden, yet no private individuals who were present there have been cited as witnesses. Therefore, the matter requires further inquiry. In support of this argument, reference is made to the case of ***Muhammad Raees v. The State (2020 P.Cr.L.J Note 199)***.

7. Mere involvement of the applicant in another offense that is heinous in nature should not be the sole basis for denying bail to an accused who is otherwise eligible for bail. It is important to note that the applicant does not have any previous convictions. In support of this argument, reference is made to the case of ***Arsalan Masih Vs The State (2019 S.C.M.R 1152)***.

8. Based on the discussions above, it is determined that the case of the applicant requires further inquiry, as per Section 497(2) of the Criminal Procedure Code (Cr.P.C). The applicant's liability will be determined after a thorough examination of the evidentiary value of the material presented during the trial. Until then, the applicant's case falls within the purview of Section 497(2) Cr.P.C, necessitating further inquiry into the applicant's guilt. Consequently, the bail application is accepted, and the applicant is granted post-arrest bail, subject to the condition that he provide a solvent surety in the amount of Rs.50,000/- (rupees fifty thousand) and a Personal Recognizance (P.R) bond in the same amount, to the satisfaction of the trial court.

9. It is important to note that the observations made above are of a tentative nature and should not prejudice the case of either party during the trial. These observations are made in the context of the bail application and should not be considered as final determinations of guilt or innocence. The trial will provide an opportunity for both parties to present their evidence and arguments, and a final decision will be reached based on the merits of the case.

JUDGE