

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.736 of 2023

Applicant : Pervaiz Ahmed S/o Bashir Ahmed
Through Mrs. Asma Khan, Advocate

Respondent : The State
Through Mr. Abrar Ali Khichi,
Addl. Prosecutor General, Sindh
a/w PI Abdul Rauf, I.O. SIU/CIA Karachi

Date of hearing : 31.08.2023

Date of order : 31.08.2023

ORDER

AMJAD ALI SAHITO, J – Through this bail application, applicant/accused seeks pre-arrest bail in FIR No.304/2022 U/s. 6/9(i)-3(E), Sindh Amended Narcotics Act, 2022 at PS SIU Karachi, after his bail has been declined by the learned Addl. District & Sessions Judge-I, Karachi East vide order dated 24.03.2023.

2. The details and particulars of the FIR are already available in the memo of bail application and FIR, which can be gathered from the copy of FIR attached with the application, hence, needs not to reproduce the same hereunder.

3. Per learned counsel, the applicant is innocent and has falsely been implicated in this case; that the applicant was not arrested on the spot; that in fact, on the statement of co-accused, the present applicant has been booked in the instant case; that four witnesses have been examined by the learned trial Court. She lastly prays that the applicant is no more required for further investigation, as such, his bail may be confirmed.

4. On the other hand, learned Addl. P.G. opposes for confirmation of bail.

5. Heard and perused. Admittedly, the applicant was not arrested on the spot and on the basis of statement made by co-accused, he has been implicated in this case, otherwise no evidence is available on record to believe that he has committed the alleged offence. In view of Article 38 of Qanoon-e-Shahadat, the statement of co-accused is inadmissible. Further, in the case of

Rehmatullah v. The State (2011 SCMR 1332), the Hon'ble Supreme Court of Pakistan has held that the courts should not grant or cancel bail when the trial is in progress and proper course for the courts in such a situation would be to direct the learned trial Court to conclude the trial of the case within a specified period.

6. In view of the above stated position and taking guidance from the cited case, learned counsel for the applicant has made out a case for grant of bail in terms of subsection 2 of Section 497 Cr.P.C. Resultantly, the instant bail application is allowed. The pre-arrest bail granted to the applicant vide order dated 03.04.2023 is hereby confirmed on the same terms and conditions. Applicant/accused is directed to attend the trial as and when required. Further, learned trial Court is directed to expedite the case and conclude the same preferably within 60 days after receipt of this order. However, it is made clear that if the applicant/accused misuses the concession of bail, learned trial Court would be at liberty to take appropriate action.

7. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant on merits.

JUDGE

Kamran/PA