

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.929 of 2023

Applicant : Noman Khan S/o Mosam Khan
through Mr. Shah Imroz Khan, Advocate

Complainant : Ather Ahmed S/o Amjad Ali
None present.

Respondent : The State
Through Mr. Abrar Ali Khichi,
Addl. P.G., Sindh

Date of hearing : 05.09.2023

Date of order : 05.09.2023

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks post-arrest bail in Crime No.44/2023 for the offence under Section 397/34 PPC registered at PS Shahrah-e-Noor Jehan, after his bail plea has been declined by the learned V-Additional Sessions Judge, Karachi Central vide order dated 30.03.2023.

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

3. Per learned counsel for the applicant, the applicant is innocent and has falsely been implicated in this case; that the name of the applicant does not transpire in the FIR so also no recovery has been effected from him; that no identification parade has been held; that the complainant has been examined before the trial Court, as such, the applicant is no more required for further investigation. He lastly prays for grant of post-arrest bail.

4. On the other hand, learned Addl. P.G. has vehemently opposed for bail

5. Heard arguments and perused the record.

6. Admittedly, though the name of the applicant does not transpire in the FIR but in robbery cases, it is not possible for the

complainant to disclose the names of the accused because he does not know the applicant; however, when the present applicant was arrested in the instant case, a mobile phone allegedly robbed in Crime No.38/2023 U/s 397/34 PPC was recovered from his possession. Sufficient material is available on record to connect the applicant with the commission of alleged crime. Further, the complainant has been examined before the trial Court, as such, reliance is placed in the case of **Rehmatullah v. The State (2011 SCMR 1332)**, wherein 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. At bail stage, only tentative assessment is to be made and deeper appreciation is not permissible. No malafide or ill-will has been pointed out against the complainant.

7. In view of above and taking guideline from the cited case, learned counsel for the applicant has failed to make out a case for grant of post-arrest bail in terms of subsection 2 of Section 497 Cr.P.C. Accordingly, the instant Bail Application is **dismissed**. However, learned trial Court is directed to expedite the matter and conclude the same preferably within 60 days.

8. 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/accused on merits.

JUDGE

Kamran/PA