

ORDER SHEET  
IN THE HIGH COURT OF SINDH KARACHI  
**Criminal Bail Application No.1085 of 2023**

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Date	Order with signature(s) of Judge(s)
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Shabir Hussain Chachar.....Applicant/Accused

Vs.

The State.....Respondent

**19.09.2023**

Applicant is present on interim pre-arrest bail.  
Mr. Muhammad Aslam, Advocate for the Applicant  
Mr. Abrar Ali Khichi, Addl. P.G.

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**ORDER**

**AMJAD ALI SAHITO, J** -- Through this application, applicant above named seeks pre-arrest bail in Crime No.703/2012 U/s 448, 354, 34 PPC at PS Gulistan-e-Johar, after his bail plea has been declined by the learned Addl. District & Session Judge-I, Karachi East vide order dated 17.05.2023.

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, the applicant is innocent and has falsely been implicated in this case; that there is no evidence against the applicant except he remained fugitive from the law; that during pendency of the case, all the co-accused have been acquitted except the present applicant and the case was kept in the dormant file; that the applicant was not aware about the pendency, but when he came to know about the present case, he approached before the trial Court for pre-arrest bail but subsequently, after hearing the parties, the same was declined;

that no evidence is available on record except the absconsion of the applicant. He lastly prays for confirmation of bail.

4. On the other hand, learned Addl. P.G. vehemently opposes for confirmation of bail on the ground that the applicant remained fugitive from law for a longer period of time.

5. Heard arguments and perused the record.

6. Admittedly, the only allegation against the present accused is that he was present alongwith co-accused at the place of incident. However, since all the co-accused have been acquitted in this case and it is yet to be determined whether the present applicant has shared the common intention in the commission of alleged offence when the evidence will be recorded. So far as the contention of learned Addl. P.G. that the applicant remained fugitive from law for a longer period of time is concerned, suffice to say that if the case of the applicant is otherwise made out on merits and his mere absconsion would not come in the way of his bail. In the case of **Gul Nawab versus The State through A.G. Khyber Pakhtunkhawa and another” (2022 SCMR 547)**; in which the Hon’ble Supreme Court has held that so far as the argument of learned Law Officer that the petitioner remained absconder for a period of nine years is concerned, we are of the view that mere abscondance cannot be a ground to discard the relief sought for as it is established principle of law that disappearance of a person after the occurrence is but natural if he is involved in a murder case right or wrongly. Reliance is placed on Rasool Muhammad v. Asal Muhammad (1995 SCMR 1373). The applicant is attending the Court and he is not misusing the concession of bail.

7. In view of the above and taking guideline from the above 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. Accordingly, the instant Bail Application is allowed. The interim pre-arrest bail already granted to the applicant vide order dated 18.05.2023 is hereby confirmed on the same terms and conditions. However, the Applicant is directed to attend the trial. It is made clear that if the applicant misuses the

concession of bail, learned trial Court would be at liberty to take appropriate action.

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