

# IN THE HIGH COURT OF SINDH, KARACHI

## **Criminal Bail Application No. 762 of 2024**

<i>Date</i>	<i>Order with Signature of Judge</i>
<b>Applicant:</b>	Muhammad Javed son of Abdul Razaque (on bail), through Mr. Inayatullah Bugti, Advocate.
<b>The State:</b>	Through Ms. Seema Zaidi, Addl. Prosecutor General, Sindh along with SIP Abdul Rasool Siyal.
<b>Date of hearing:</b>	31.05.2024.
<b>Date of order:</b>	31.05.2024.

### **ORDER**

**Muhammad Saleem Jessar, J:-** Through this application, applicant Muhammad Javed seeks his admission on pre-arrest bail in Crime No. 265/2017 of Police Station North Nazimabad, Karachi, under Section 420, 406, 34 PPC. The case has been challaned, which is now pending for trial before the Court of 9<sup>th</sup> Judicial Magistrate, Karachi (Central). The applicant preferred his anticipatory bail before the Court of Sessions, which was assigned to 2<sup>nd</sup> Addl. Sessions Judge, Karachi (Central), who after hearing the parties, has turned down his request through order dated 02.03.2018. Hence, instant bail application has been maintained.

2. Since the facts of the prosecution case are already mentioned in the FIR, which is annexed with the Court file, therefore, there is no need to reproduce the same.

3. Learned counsel for the applicant submits that co-accused Dr. Saeed Ahmed having similar role has already been granted pre-arrest bail by this Court on 26.01.2024. In support of his contention, learned counsel has annexed a copy of said order vide Criminal Bail Application No.2704 of 2023 Re-Dr. Saeed Ahmed Versus The State (*available as Annexure-C at page-33 of the Court file*). He further submits that case has been challaned and charge against applicant / accused as well as co-accused has been framed by the trial Court/9<sup>th</sup> Judicial Magistrate, Karachi (Central) on 25.05.2024 which has now been adjourned to 13.06.2024, for

evidence. He, therefore, submits that by extending rule of consistency, applicant may also be granted bail.

4. Process issued to complainant, has been returned served; taken on record; however, he has chosen to remain absent.

5. On the other hand, learned Addl. P.G, Sindh submits that she has not been provided copies of police papers; however, opposes the bail application on the ground that applicant has committed fraud with the complainant.

6. **Heard arguments and perused record.** Admittedly, the offence with which applicant stands charged, does not exceed limits of prohibitory clause of section 497 Cr.P.C; besides, co-accused has already been extended grace of extraordinary relief. Most astonishing thing of the case is, the offence was allegedly committed on 16.05.2016 and FIR thereof, was lodged on 23.11.2017 i.e. with a delay of about 18 months and no plausible explanation has been furnished by the prosecution for such an inordinate delay. Before parting with order, it will be appropriate to reproduce concluding para of order dated 26.01.2024 whereby co-accused was granted bail by this Court, which reads as under;\_

*"4. The offences for which the applicant has been charged all carry sentence of less than 07 years imprisonment. The general rule in such like cases is that bail should be granted unless there are some exceptional circumstances for declining the bail. I do not find any exceptional circumstances exist in this case. As per bail declining order dated 02.03.2018, it appears that the vehicles and crates have been returned to the complainant except one motor vehicle. It appears that in this respect some kind of compromise is taking place by intervention of Poultry Union. The charge has been framed and the applicant is no longer required for investigation. It is in dispute whether the final vehicle has been returned or not to the complainant which makes the case of further inquiry."*

7. Since, the co-accused has already been extended grace of pre-arrest bail, therefore, propriety of law demands that applicant should also be extended constant treatment. In case, he may be taken into custody and put behind the bars today, tomorrow again he will be bailed out on the ground of parity. Reliance can be placed upon the case of *MUHAMMAD RAMZAN Versus ZAFAR ULLAH and another (1986 SCMR 1380)*. Accordingly, instant bail application is hereby allowed; interim bail granted earlier to applicant **Muhammad Javed son of Abdul Razaque** on 02.04.2024 is hereby confirmed on same terms and conditions.

8. Before parting with this order; however, it is clarified that the reasoning given in this order are tentative in nature and will have no effect or bearing whatsoever in any manner upon the merits of the case.

9. Applicant present before the Court is directed to continue his appearance before the trial Court without negligence and in case he may misuse the

concession or may temper with the prosecution's evidence then the trial Court is competent to take legal action against him as well to his surety in terms of Section 514 Cr.PC. Trial Court is also hereby directed to make necessary arrangements for securing attendance of the prosecution witnesses and conclude the trial within shortest possible time under intimation to this Court through MIT-II.

10. Let copy of this Order be communicated to trial Court through learned Sessions Judge, concerned. Learned MIT-II to ensure compliance.

*JUDGE*

Zulfiqar/P.A