

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Criminal Bail Application No.1154 of 2024

Date	Order with signature of Judge
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For hearing of bail application

Date of hearing and Order:- 09.07.2024

Mr. Manzoor Iqbal advocate for the applicant

Mr. Siraj Ali Khan Chandio, Additional PG. along with complainant

ORDER

Adnan-ul-Karim Memon, J:- Through this bail application under Section 497 Cr.P.C., the applicant Aamir Ali has sought admission to post-arrest bail in F.I.R No. 145/2024, registered under Section 394/397/34 PPC, lodged at Police Station Steel Town Karachi. The earlier bail plea of the applicant has been declined by the learned Additional & Sessions Judge VIII Malir Karachi vide order dated 17.05.2024 in Criminal Bail Application No.2197/2024 on the premise that he along with his accomplices committed robbery of one purse brown color, Rs.500/- NIC Copy One purse black color Rs.300 and other documents from the complainant Muhammad Saleem. However, the complainant has recoiled from his statement and has raised his no objection if the bail plea of the applicant is accepted, an expert of paragraph No.2 of the affidavit is reproduced as under:-

“ That I say that I have no objection if this Honourable Court grants bail to the applicant/accused. Further police forced me to nominate/identify the present applicant in my case. However, he is not my real culprit. Hence this affidavit.”

2. Learned counsel for the applicant/accused has argued that there is no ground to believe that the applicant/accused has committed any offense with which he stands charged otherwise the story narrated in the FIR is concocted and fabricated thus the case requires further inquiry. He has further argued that no such incident has ever occurred and the complainant lodged an FIR against unknown assailants the complainant Muhammad Saleem and the victim Zahid came forward to raise their no objection if the applicant is enlarged on bail. He lastly prayed for allowing the bail application.

3. Learned APG has opposed the bail plea of the applicant on the ground that FIR was lodged without delay; that specific role has been assigned to the applicant; no enmity has been shown to the police; that sufficient material is available against the applicant to connect him with the crime; that police officials are good witnesses like others; that Section 397 PPC carries punishment for up to 7 years; that the crime is against the society. He prayed for the dismissal of his bail application.

4. Whereas, in pursuance of the Court Notice, the complainant Muhammad Saleem present in Court, while referring to his affidavit, available on the record, submits that he has No Objection to the grant of bail to the applicant/accused as the FIR has been lodged against unknown persons and police forced him to nominate the applicant.

5. I have heard learned counsel for the parties and have perused the material available on record.

6. Before deciding the post-arrest bail on merit, which is based on two versions one forwarded by the complainant present in court and the second by the investigating officer who challaned the case, who challaned the present applicant along with others, these two versions require thorough probe by the trial Court. However, I am cognizant of the fact that, while deciding a Bail Application, only allegations made in the FIR, statements recorded under Section 161 Cr.P.C. nature and gravity of the charge, other incriminating material against the accused, legal pleas raised by the accused and relevant law have to be considered. However, in the present case, the record reveals that the offense with which the accused/applicant has been charged is non-compoundable. However, in view of the statement of the complainant as recorded above, as well as his affidavit of no objection, the case of the applicant/accused calls for further inquiry under sub-section (2) of Section 497 Cr.P.C. The record also shows that the applicant/accused is not a previous convict nor a hardened criminal. Moreover, he has been behind bars since his arrest and is no longer required for any investigation nor the prosecution has claimed any exceptional circumstance, that could justify keeping him behind bars for an indefinite period pending the determination of his guilt. Consequently, while taking into consideration the statement of the complainant before the Court and his affidavit, the applicant is admitted to post-arrest bail in crime No. 145 of 2024 of PS Steel Town subject to his furnishing solvent surety in the sum of Rs.2,00,000/- and P.R. Bond in the like amount to the satisfaction of the trial court.

7. Needless to say the observations made in this order are tentative and shall not influence the trial Court while concluding the case. The learned trial Court is to expeditiously proceed with the trial under law, and in case of abuse or misuse of the concession of bail by the applicant, including causing a delay in the conclusion of the trial, the prosecution may approach the competent Court for cancellation of bail under Section 497(5), Cr.P.C.

JUDGE

