

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Bail Application No.580 of 2024

Applicant : Muhammad Tauseef S/o Muhammad Asif  
through Mr. Muhammad Khalid Khan  
Arshi, Advocate

Respondent : The State  
Mr. Ali Haider Saleem, Addl. P.G. Sindh

Date of hearing : 11.07.2024

Date of order : 11.07.2024

### **ORDER**

**AMJAD ALI SAHITO, J** -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.171/2024 for the offence under Section 376 PPC at PS Zaman Town, after his bail plea has been declined by the learned VIIth Additional Sessions Judge, Karachi East vide order dated 07.03.2024.

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, applicant is innocent and has falsely been implicated in this case; that the applicant is a shopkeeper and used to give grocery items to the complainant free of cost as she was below the poverty line, however, when the applicant refused to give her the same then she lodged a false FIR against him, otherwise he has not committed any such offence; that the FIR is delayed about three months for which no plausible explanation has been given; that the complainant herself stated that she has given Rs.2 lacs to the applicant, which is contrary to her own statement as she pretends herself as a poor lady; that there is no proof of Zina committed by the applicant with the complainant; that there is no medical evidence nor DNA has been conducted; that no independent witness has been cited. 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 complainant is two months pregnant claiming the applicant for committing Zina wit

her; that the solitary statement of the victim is sufficient ground to connect the applicant with the commission of offence.

5. From perusal of record, it reflects that the complainant was divorced by her previous husband and being poor lady; she used to purchase grocery items on part-payment from the applicant. Subsequently, the applicant started to exploit her poverty and committed zina with her. Now she is two months pregnant as such sufficient evidence is available against the applicant. The offence in which the applicant has been charged falls within the prohibitory clause, which is punishable with death or imprisonment for a term not less than 10 years and more than 25 years. The sufficient material is available on record to connect the applicant. At bail stage, only tentative assessment is to be made. No malafide or ill-will or enmity has been pleaded by the applicant/accused, which could be the ground for his false implication in this case.

6. Further, the concession of pre-arrest bail cannot be allowed to an accused person unless the Court feels satisfied with the seriousness of the accused person's assertion regarding his intended arrest being actuated by *mala fide* on the part of the complainant party or the local police but not a word about this crucial aspect of the matter is found as no *mala fide* is made on the part of the complainant to believe that the applicant/accused has been implicated in this case falsely. In this context, the reliance is placed to the case of '**Rana Abdul Khaliq v. The STATE and others**' [2019 SCMR 1129]. In addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual course of law, arrest in cognizable cases; protection to the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*, it is not a substitute for post-arrest bail in every run of the mill criminal case as it seriously hampers the course of the investigation.

7. In view of the above, the instant bail application is **dismissed**. Resultantly, the interim pre-arrest bail granted to the applicant/accused vide order dated 18.03.2024 is hereby recalled.

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