

IN THE HIGH COURT OF SINDH AT KARACHI**Crl. Bail Application No. 584 of 2024**

Applicant : Shahbaz @ Chaba
through Mr. Muhammad Shareef
Akhunzada, Advocate

Respondent : The State
through Mr. Faheem Hussain Panhwar,
Additional Prosecutor General, Sindh

Complainant : through Mr. Basam Ali Dahri, Advocate

Date of hearing : 10th September, 2024

Date of Order : 13th September, 2024

ORDER

Omar Sial, J.: Shahbaz alias Chaba has sought post-arrest bail in crime number 23 of 2022, registered under sections 365, 377, and 34 P.P.C. at the Baloch Colony police station. This is the second bail application he has filed in the High Court. The first application (Crl. Bail Application No. 1347 of 2022) was dismissed on 19.09.2022.

2. I have heard both counsels and the Additional Prosecutor General.

3. The only ground urged by the learned counsel is that of statutory delay. He has been in custody since 22.02.2022. Currently, the applicant is accused of committing offenses under sections 365, 377, 377-A, and 377-B P.P.C., which carry a potential sentence of varying time frames but not exceeding ten years for either offence. The third proviso to section 497 Cr.P.C. provides that “the Court shall, except where it is of the opinion that the delay in the trial of the accused has been occasioned by an act or omission of the accused or any other person acting on his behalf or in the exercise of any right or privilege under any law for the time being in force, direct that

any person shall be released on bail-- (a) who, being accused of any offence not punishable with death, has been detained for such offence for a continuous period exceeding one year and whose trial for such offence has not concluded.” The concession, however, shall not apply to a previously convicted offender for an offence punishable with death or imprisonment for life or to a person who, in the opinion of the Court, is a hardened, desperate, or dangerous criminal or involved in terrorism. The applicant has been in custody for 30 months, and his trial has not been concluded. In an order dated 19.09.2022 passed in the first bail application filed by the applicant, the trial court was directed to endeavor and conclude the trial in a four-month period. The trial court failed to do so. Learned Additional Prosecutor General has confirmed that the applicant has no past crime record. I have also gone through the case diaries with the assistance of all the counsels present, and it would be safe to say that the delay in concluding the trial has not been on the applicant's part.

4. Given the above, the applicant has made out a case for release on bail on grounds of statutory delay. He should be released on bail. Keeping in view the nature of the allegation, release on bail is subject to the following bail conditions:

(i) Furnishing three solvent sureties of Rs. 200,000 each and P.R. Bonds of identical amounts.

(ii) The applicant or anybody acting on his behalf will not contact or engage with the complainant, the victim, or the family.

(iii) Till the conclusion of the trial, the applicant will mark his presence before the S.H.O. of the area where he resides on the first Monday of every month.

(iv) The applicant or his counsel will seek no adjournment till the conclusion of the trial.

If evidence is provided to the learned trial court that the applicant has not complied with conditions (ii), (iii), or (iv) above, this concession of bail should be directly cancelled by the learned trial court.

5. A copy of this order should be sent to the S.H.O. within whose area the applicant resides.

JUDGE