

Order Sheet
IN THE HIGH COURT OF SINDH, KARACHI

Crl. Bail Application No.2710 of 2023

Date **Order with signature of Judge**

For Hearing of Bail Application.

Mr. Ajab Khan Khattak, advocate for the Applicant.
Ms. Seema Zaidi, Additional Prosecutor General.

Date of hearing and Order 04.03.2024.

ARSHAD HUSSAIN KHAN J., Through this Criminal Bail Application, Applicant/accused Muhammad Yaseen son of Mateen seeks post arrest bail in the FIR No.22/2023 under section 392, 397, 34 PPC registered at P.S. Iqbal Market, Karachi.

The brief facts of the case are sufficiently mentioned in the memo of bail applications and FIR as well as impugned order, hence need no reproduction.

Learned counsel submits that the applicant / accused is innocent and has falsely been implicated in the present case by the complainant with malafide intention. He further submits that co-accused namely; Danish Ali has been granted bail by this Court in Crl. Bail Application No.1498/2023, as such, the applicant is also entitled for concession of bail according to rule of consistency. He also submits that applicant is behind the bars from the date of his arrest and he is only earning person of his family. Learned counsel further submits that the alleged offences do not fall within the prohibitory clause of Section 497 Cr.P.C. He further argues that applicant was arrested within the populated area but there is clear violation of Section 103 Cr.P.C., hence the matter requires further inquiry. To support his contention learned counsel has relied upon the cases reported as *Shahzore v. the State* [2006 YLR 3167] and *Muhammad Tanveer v. the State* [2017 PLD Supreme Court 733].

Learned Additional Prosecutor General opposes grant of bail and submits that the applicant was arrested red-handed at the spot in injured condition and unnumbered 30 bore pistol was recovered from his possession, which prima facie connects the applicant in instant crime.

I have heard learned counsel for the applicant and learned Addl. PG as well as perused the record with their assistance.

Upon tentative assessment of the material available on the record, it appears that as per prosecution story the applicant / accused was apprehended / arrested at the spot while committing dacoity and unnumbered 30 bore pistol was recovered from the personal search of the applicant / accused. However, no enmity, ill-will or grudge has been alleged against the complainant as well as against the police party regarding falsely implication of the applicant in the present case. Therefore, I do not find any reason to disbelieve the version of the prosecution as sufficient material is available on the record, which prima facie connects the applicant in the instant crime.

As regards the rule of consistency or parity for considering grant of bail to the applicant is concerned, a perusal of the FIR shows that the role of co-accused who has been granted bail by this Court is distinguishable to the role assigned to the present applicant and only present applicant disclosed the name of co-accused Danish and after his arrest nothing incriminating has been recovered from him during investigation. The doctrine of parity or rule of consistency in a criminal case elucidates that if the case of the accused is analogous in all respects to that of the co-accused then the benefit or advantage extended to one accused should also be extended to the co-accused on the philosophy that the "like cases should be treated alike. In my humble opinion, the rule of consistency is not attracting in the present case.

Moreover, the cases of snatching of valuable articles on gun point are increasing day-by-day in the city during which innocent citizen are deprived of cash, other valuable items and sometimes they lost their lives, besides snatching of valuables itself is an offence of a heinous nature and crime against the society. Hence, in view of the facts and circumstances of the case, I am of the opinion that the applicant has not been able to make out his case for grant of bail, hence instant bail application is dismissed. However, trial

court is directed to conclude the trial preferably within a period of three (03) months from today. Needless to mention here that any observation made in this order is tentative in nature and shall not affect the determination of the facts at the trial or influence the trial Court in reaching its decision on the merits of the case.

Bail application stands disposed of accordingly.

JUDGE

Jamil***