

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No.S- 72 of 2024
(*Shahnawaz Shar v. The State*)

Mr. Rukhsar Ahmed Junejo, Advocate for the applicant.
Mr. Dareshani Ali Haider 'Ada', D.A.G along with Nafees-ud-Din, Inspector Legal and Noor Muhammad, SHO, Railway Police Station, Rohri.

Date of Hearing & Order: **08-03-2024**

ORDER

MUHAMMAD IQBAL KALHORO, J. – Electric Foreman, Locoshed Rohri, namely, Muhammad Iqbal reported a matter to Railway Police, Rohri on 26.12.2023 of theft of 156 feet of Leads of Copper, Teas Bolts and Pins from a railway engine on 24.12.2023. In the investigation, four accused were arrested who during investigation disclosed about selling the aforesaid property to the applicant, who is by profession scraper. When raid was conducted on his shop, the stolen property was recovered. Hence, he has been booked in this case.

2. Learned defence counsel has pleaded for bail on the ground that the offence does not fall within the prohibitory clause of section 497(1) CrPC; name of applicant is not mentioned in the FIR; there is delay of two days in registration of FIR. He has relied upon the case law reported as **2023 SCMR 1729**.

3. On the other hand, learned DAG has opposed bail and has referred to section 126-B of the Railways Act, 1890 and submits that *prima facie* the same is attracted in this case and it is punishable for death or imprisonment for life. The I.O is present and submits that this theft took place from a running engine when it was being taken out of locoshed for readying the train for departure and in case, theft had not been spotted,

it could have resulted in loss of lives. He further submits that apart from stolen property of Pakistan Railways, applicant was found in possession of other stolen property as well.

4. I have considered submissions of parties and perused material available on record. In my view, it is not an ordinary case of theft punishable under section 379 PPC, but here the important instruments of railway engine were stolen when it was being readied to run on the line. As per I.O, this material pertains to brakes of the engine, and in case theft was not spotted by the engine driver timely and the train had been allowed to run, the dangerous incident causing loss to lives would have taken place.

5. Therefore, in my humble view, the argument of DAG is sustainable that *prima facie* section 126-B of the Railways Act, 1890, is attracted. Hence, I do not find the applicant entitled to bail. Accordingly, this bail application is **dismissed**. However, the trial Court is directed to examine the material witnesses including complainant and Mashir within a period of two months. After which, the applicant would be at liberty to file a fresh bail application before the trial Court, which shall be decided on its own merits. The observations made hereinabove are tentative in nature and shall not influence the trial Court while deciding the case on merits.

JUDGE

Ahmad