

# IN THE HIGH COURT OF SINDH, KARACHI

## **Criminal Bail Application No. 1819 of 2024**

| <i>Date</i>   | <i>Order with signature of Judge</i>   |
|---|--|
| <b>Applicant</b><br>Suleman Khan<br>son of Kameen Khan<br>(present on bail) | : Through Mr. Hassan Ali Sheikh, Advocate  |
| <b>The State</b>  | : Through Mr. Saleem Akhtar Buriro, Addl.<br>Prosecutor General, Sindh along with I.O / S.I<br>Nisar Ahmed of P.S Docks, Karachi |
| <b>Complainant</b><br>Muhammad Saleem<br>son of Muhammad Bashir             | : In person  |
| <b>Date of hearing</b>  | : 11.10.2024   |
| <b>Date of order</b>  | : 11.10.2024   |

### **ORDER**

**Muhammad Saleem Jessar, J:-** By way of instant application, applicant Suleman Khan son of Kameen Khan seeks his admission to pre-arrest bail in Crime No.368 of 2023 registered with P.S Docks, Karachi for the offence punishable to Sections 406, 420, 170 & 34 PPC. The case has been challaned which is now pending for trial before the Court of Civil Judge & Judicial Magistrate-I, Karachi (West). The applicant filed Criminal Bail Application No.3434 of 2024 (*re-Suleman Khan Versus The State*) before the Court of Sessions which subsequently was assigned to Addl. Sessions Judge-XII, Karachi (West), who after due notice and hearing the parties, turned down his request vide order dated 07.08.2024. Hence, instant bail application has been maintained.

2. Since the facts of the prosecution case are already mentioned in the FIR, which is annexed with the Court file, therefore, there is no need to reproduce the same.

3. Learned counsel for the applicant submitted that applicant has falsely been implicated by the complainant and that the amount, as claimed by the complainant, was never paid to him. He further submitted that accused has surrendered before the trial Court; hence, case against him requires further inquiry. He, therefore, prayed for grant of application as well as confirmation of bail.

4. On the other hand, learned Addl. P.G, Sindh appearing for the State, opposed the bail application on the ground that accused is nominated in the FIR; besides, he had remained fugitive from the law for a noticeable period, therefore, challan against him was submitted by the I.O in terms of Section 512 Cr.P.C. Next submitted that after completion of proceedings in terms of Section 87 & 88 Cr.P.C, CNIC of the accused was directed to be blocked, therefore, he rushed to get bail; hence, such his conduct shows that he had wrong intention to abscond away instead of surrendering before the trial Court. In support of his argument, learned Addl. P.G referred to para-7 of the order passed by learned Addl. Sessions Judge-XII, Karachi West (*available at page-27 of the Court file*) and prayed that by dismissing this application, applicant may be taken into custody so that trial could be concluded within shortest possible time.

5. I.O / S.I Nisar Ahmed of P.S Docks, Karachi present, submitted that during enquiry all four accused had not joined the trial proceedings even after registration of the case they had not bothered to surrender instead were hiding themselves only to defeat interest of the prosecution. He further submitted that due to non-cooperation of accused and their being fugitive from the law, he, after completion of the formalities, submitted challan against them in absentia, as required by Section 512 Cr.P.C. Therefore, the trial Court, after taking cognizance, had issued directions to NADRA authorities for blockage of CNIC of the applicant and after blocking of his CNIC, he appeared before the Court for bail. Hence, he

(I.O) is of the view that accused may again abscond away, as he, according to his information, is a habitual and used to cheat the people of the area.

6. Complainant Muhammad Saleem, present in person, also opposed the bail application and submitted that he himself had paid Rs.500,000/- to accused and later instead of fulfilling the task, applicant cheated him and the amount paid to accused by him was usurped and still applicant is issuing threats to withdraw from the case *else* he being a custom officer, would get him implicated in false criminal cases.

7. **Heard arguments, record perused.** Admittedly, the applicant is nominated in the FIR with a role of cheating the complainant. Moreover, perusal of the FIR reveals that it was registered on 28.07.2023 but the accused surrendered before the Court below for anticipatory bail in the year 2024. The contention so raised by learned Addl. P.G, Sindh gets support from the order passed by learned Addl. Sessions Judge-XII, Karachi (West). It will be appropriate to reproduce para-7 of the impugned order, which reads as under;\_

*“7. Accused in furtherance of common intention has deprived the complainant and his friend from the money. As per record, charge sheet was submitted on 30.08.2023 but accused did not bother to attend the Court and he remained absconder. Thereafter, NBWs were issued and probably proceedings U/s 87 & 88 Cr.PC were completed then accused compelled to appear and move the application for pre-arrest bail. Common intention is part of FIR and delay is immaterial.”*

8. This is a pre-arrest bail application for which certain conditions have been prescribed by the Hon’ble Supreme Court of Pakistan but the accused has failed to pinpoint any of the basic ingredients for his admission to pre-arrest bail. In absence of any malafide or ulterior motive, accused cannot be extended extraordinary relief more particularly when he himself had remained absconder and after adopting coercive action by the trial Court, he filed bail application. Such his conduct shows that he is not a person of good gesture rather shown his arrogance towards law and instead to surrender before the trial Court, chosen to remain fugitive. Therefore, basic ingredients for grant of pre-arrest bail, as has been enshrined by the Hon’ble Supreme Court of Pakistan in case of *Rana MUHAMMAD*

*ARSHAD Versus MUHAMMAD RAFIQUE and another (PLD 2009 SC 427)* are lacking in this case. Accordingly, instant Criminal Bail Application, being devoid of its merits, was dismissed by a short order dated 11.10.2024 and the applicant was taken into custody. These are the reasons of said short order.

9. A copy of this order shall be sent by fax to trial Court, for compliance, with directions to conclude the trial within shortest possible time, under intimation to this Court. The prosecution shall ensure procurement of its witnesses before the trial Court on each and every date of hearing. The trial Court shall not grant adjournment to either side on any technical ground. A copy of this order shall also be sent by fax to learned Sessions Judge, Karachi (West), for compliance.

**JUDGE**

Zulfiqar/P.A