

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Crl. Bail Application No. 1895 of 2024

Date

Order with Signature of the Judge

Applicant Mueeduddin son of : Through Mr. Liaquat Ali Hamid
Ameenuddin Meyo, Advocate

The State : Through Ms. Fouzia Yousuf,
A.P.G.Sindh a/w SIP/I.O.
Ghulam Abbas and complainant
SIP Abdul Aziz Police Station
Ibrahim Hyderi, Karachi.

Date of hearing : 09.09.2024

Date of order : 09.09.2024

ORDER

Muhammad Saleem Jessar, J:- Through this bail application, Applicant Mueeduddin son of Ameenuddin seeks his release on post arrest bail in Crime No. 273/2024 under section 353/324/186/34 PPC registered with Police Station Jamshed Quarters, Karachi. The applicant had earlier filed post arrest bail application before trial Court, but his request was turned down by order dated 08.08.2024, hence this application.

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

3. Learned counsel for the applicant while reiterating the grounds mentioned in the memo of bail application, argued that the applicant/ accused is innocent as applicant has been booked in this crime which is common known as police encounter and rule of prudence dictates that where there is a firing from either side it should hit to public property or person but here in this case neither the public property was hit by the said encounter firing nor any person, therefore, the prosecution case needs further probe, therefore applicant may be enlarged on bail.

4. On the other hand, learned A.P.G. Sindh argued that applicant is habitual criminal involved in heinous crime and the subject crime is also not bailable and falls under the ambit of prohibitory clause of Section 497 Cr.P.C, therefore, applicant is not entitled for bail.

5. Heard arguments, record perused. Investigating Officer as well as complainant present in court submit that case has been challaned, which is now pending for preliminary proceedings in terms of dicta laid down by Hon'ble Supreme Court of Pakistan in the case of *Ramzan v. Rahib and others* (PLD 2010 SC 585) before the court of VIIIth Civil Judge & Judicial Magistrate Karachi-East. Admittedly the name of applicant is transpired in the FIR; however, per contents of this FIR the applicant and the police party fired each other but it is an admitted position that none from either side sustained any fire-arm injury; likewise vehicle of the police and public property not damaged due to said firing. The case is of ineffective firing and the rule of prudence dictates that when there is a firing between the police party as well as accused, it should hit either to the accused or to police party or police van but here in this case it has not been introduced on record that either side sustained any firearm injury due to said firing, hence, it being case of ineffective firing is yet to be established by the prosecution through evidence, therefore, the case of applicant needs further inquiry. The perception and discernment of the expression "further inquiry" is a question which must have some nexus with the result of the case and it also presupposes the tentative assessment which may create doubt with respect to the involvement of accused in the crime. The *raison d'être* of setting the law into motion in criminal cases is to make an accused face the trial and not to punish an under trial prisoner or let him rot behind the bars. It is a well settled principle of the administration of justice in criminal law that every accused is innocent until his guilt is proved and this benefit of doubt can be extended to the accused even at the bail stage, if the facts of the case so warrant. Reference in this regard be

made to the case of *FAHAD HUSSAIN V/S THE STATE* (2023 SCMR 364). At this juncture, in view of above discussion and the dicta laid down by apex court, the case of the applicant requires further enquiry.

6. By a short order dated 09.09.2024, applicant Mueeduddin son of Ameenuddin booked in Crime No. 273/2024 under section 353/324/186/34 PPC registered with Police Station Jamshed Quarters, Karachi was admitted to bail subject to furnishing his solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and P.R.Bond in the like amount to the satisfaction of trial court/VIIIth Civil Judge & Judicial Magistrate Karachi-East. Above are the reasons for the said short order.

7. It may be pertinent to mention here that the observation(s) made hereinabove is/are tentative in nature and shall not prejudice the case of either party during trial. However, if the applicant is found misusing the concession of bail, learned trial Court would be competent to proceed against him as well as his surety.

Aamir/PS

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