

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CR. BAIL APPLICATION NO.1511/2024

Date Order with signature of Judge

1. For order on office objection as at A.
2. For hearing of bail application.

29.10.2024

Mr. Mushtaq Ahmed advocate for applicant.
Ms. Anna Ansari, APG.

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At the outset learned A.P.G. contends that file is with the Special Prosecutor for Pakistan Rangers as appointed by the Home Department. Diaries reflect presence of the Special Prosecutor on each and every date. Learned counsel for applicant presses bail application even in absence of the Special Prosecutor and non-availability of prosecution file on the plea that applicant is entitled for bail on statutory ground.

2. It is matter of record that on merits bail is not decided by the trial court or by this court. Needless to mention that in view of the case of Sh. Liaquat Hussain and others v Federation of Pakistan through Ministry of Law, Justice and Parliamentary Affairs Islamabad and others (PLD 1999 SC 504), it is to be seen whether delay is on the part of prosecution or by the accused. Relevant paragraph No.45 reproduced herewith of referred judgment is reproduced herewith:-

“45. Before concluding the above discussion it will not be out of context to point out that the third proviso to section 497 the Criminal Procedure Code is also substantially contributing towards the delay in the disposal of criminal cases as it entitles an accused person accused of an offence not punishable with death to obtain bail on the expiry of one year from the date of his arrest, and in case of an offence punishable with death on the expiry of two years period from the date of his arrest. Some of the accused persons by their design ensure that the trials of their cases are delayed, so that they may come out of jails on the expiry of the above statutory period. In my humble view, the above provision has been misused and the same needs to be deleted. I may also observe that even before the incorporation of the above proviso, it was open to a Court to grant bail in a fit case on the ground of inordinate delay in the trial of a case, but no accused person was

entitled to claim bail as a matter of right on the expiry of certain period.”

Counsel for applicant has failed to produce depositions to examine the case on merits. Besides, order of the trial court refers that case is at the verge of conclusion; all witnesses have been examined and only cross-examination of last witness is reserved **at the request of defense counsel as refereed in last paragraph** at page 27. Besides, applicant falls within the category of hardened criminal which is also required to be examined while deciding bail on statutory ground; besides, mathematical calculation of dates is deprecated by the apex court, hence this is not a case of bail, bail application is therefore dismissed. Further, trial court shall conclude the trial within two months.

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