

ORDER SHEET
THE HIGH COURT OF SINDH, AT KARACHI

Cr. Bail Applications No.59 and 188 of 2021

Zameer Ahmed AND Mst. Batool Zehra
Versus
The State

Date Order with signature(s) of Judge(s)

For hearing of bail application.

Dated: 21.04.2021

Mr. Muhammad Hanif for applicant in Cr. Bail Application No.59 of 2021 along with applicant present in person.

Mr. Aijaz Muhammad Bangash for applicant in Cr. Bail Application No.188 of 2021 along with applicant present in person.

Ms. Rubina Qadri, APG for the State.

Muhammad Shafi Siddiqui, J.- These two connected bail applications were filed in respect of an offence arising out of FIR No.437/2020 registered under section 380/34 PPC at police station Malir City Karachi.

Heard the counsels as well as APG. Perused record.

Primarily two accused were shown involved in the said FIR 437/2020 and one of the co-accused namely Mst. Mehjabeen Zehra daughter of Syed Mumtaz Hussain was granted bail by this Court vide order dated 02.02.2021. The role of the co-accused in the referred bail order is identical to the one assigned to applicant Mst. Batool Zehra who has filed the connected bail application. In terms of FIR common role was assigned to both the accused.

The complainant alleged in the FIR that while the complainant and his wife went away for about two months on 13.09.2020 to attend his daughter at Nawabshah, on their return they (complainant and his wife) found some golden ornaments missing, which were lying in a bag kept under bed of their room. The golden ornaments which were found missing were five gold biscuits and other golden ornaments. On inquiry,

the complainant came to know that in their absence their son Zohaib Hussain and his wife Batool came to their house and stayed there for about ten days; they were joined by common friend Mehjabeen wife name not known (to whom the bail was granted, as referred above). They stayed there together for about two days. The complainant was certain that these golden ornaments were stolen by his daughter in law Zohra Batool and her friend Mehjabeen wife name not known.

The case has been challaned and pending for trial in the Court of Judicial Magistrate Malir Karachi.

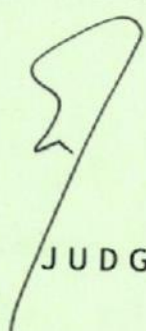
It seems that there is no direct evidence against the applicant/co-accused Batool Zehra. The role of applicant Mehjabeen to whom bail was granted is identical to the one of the co-accused Mst. Batool Zehra daughter in law of the complainant. It is also pertinent to note that complainant has not nominated his son in the FIR though he has also remained in the house in the absence of complainant and his wife. It is at the most a case of unseen incident. In view of following the principle of consistency one of the applicant Batool Zehra is entitled to a bail having been nominated in the FIR, assigned same role as that of co-accused Mehjabeen. The contents of the FIR itself disclose that he (complainant) had doubt on the accused/applicants to have stolen the gold ornaments as they have not personally witnessed such act/incident.

As far as case of applicant Zameer Ahmed is concerned, he was not nominated in the FIR and whatever allegation against him has been unearthed during the course of investigation which is based on the statement of co-accused. The only allegation against applicant Zameer Ahmed is that he, being a jeweler by profession, has purchased some of stolen golden ornaments. Hence, at best he may be having involved in an offence under section 411 PPC for having stolen articles with him, which though does not appear to have been recovered from this applicant.

Even otherwise, the punishment for such offence is provided to be maximum three years and hence is a fit case of further inquiry.

This being the situation both the applicants are entitled for the relief of bail on the same terms as granted to them at the time of interim bails on 14.01.2021 and 01.02.2021 respectively, which is hereby confirmed.

Bail applications stand disposed of.



JUDGE