

Not for reporting:
Baillie office

699

IN THE HIGH COURT OF SINDH AT KARACHI

Before: Mr. Justice Mohammed Karim Khan Agha

Cr. Bail Application No.128 OF 2018

Abdul Karim s/o Muhammad Ibrahim.

Vs.

The State

Date of hearing:	19-02-2018.
Date of Order	21-02-2018
Applicant:	Through Mr. Ghulam Rasool Mangi, Advocate for Applicant/Accused.
Respondent:	Through Mr. Muntazir Mehdi, D.P.G. for State.

ORDER

Mohammed Karim Khan Agha, J. Through this bail application under section 497 Cr.P.C. the applicant/accused seeks post arrest bail in FIR No. 264/2017 for offence Sections 506-B/420/468/471 PPC, registered at PS Baghdadi, Karachi.

2. On 05.12.2017 Complainant Deve Raj son of Bakhraj lodged FIR No.2564 of 2017 for offence under Section 506-B, 420, 468 & 471 of PPC at PS Baghdadi stating therein that complainant is residing with his family which was sold to him by the applicant for total sale consideration of Rs.12,00,000/- on 11.07.2016 but the title documents / papers were not handed over on the ground that lease is closed and as and when lease will be open same will be handed over to the applicant but after laps of considerable time it came to the knowledge of complainant the Accused Abdul Karim Jat is not the owner of said flat and the property belongs to Evacuee Trust Property, hence this FIR.

3. Learned counsel for the Applicant/Accused contended that applicant / accused is quite innocent and has been involved in this false case by the complainant on account of malafides; that no specific role has been assigned in the FIR and general allegations have been leveled against the applicant therefore, the case of the applicant/accused is covered under the provision of section 497 Cr.P.C. He therefore prayed that in view of his submissions the applicant/accused is entitled for grant of post arrest bail.

4. On the other hand, Learned D.P.G. for the State has vehemently opposed the bail application on the grounds that the name of the applicant/accused is mentioned in the FIR with his specific role, therefore, the applicant/accused is not entitled for concession of bail as sufficient material is available on record against him, thus, the learned trial court has rightly declined bail to the applicant/accused vide impugned bail order dated 22.01.2018 and as such the post arrest bail of the applicant should be declined.

5. I have considered the submissions of learned counsel for the applicant/accused, learned DPG for the State and perused the record.

6. Needless so say that this order only involved a tentative assessment of the material on record and shall not have any bearing on the case proceeding before the trial court which shall determine the case on merits based upon the evidence which comes before it.

7. To my mind the key consideration in this case is that the offenses so charged do not fall within the prohibitory clause of S.497 Cr.PC. In such cases the general rule is bail not jail. In this

respect reference is made to the case of **Tariq Bashir V State** (PLD SC 1995 34). Learned counsel for the State has not been able to pinpoint any exceptional grounds in this case which would justify deviating from the above rule. Furthermore, the applicant is no longer required for investigation and it would not serve any useful purpose keeping him locked up behind bars until the conclusion of his trial which does not appear to be foreseeable in the near future.

8. As such based on the particular facts and circumstances of this case and for the above reasons the applicant is granted post arrest bail subject to him furnishing solvent surety in the sum of RS 5,00,000 (five lacs) and PR bond in the like amount to the satisfaction of the Nazir of this court.

9. The application stands disposed of in the above terms.