

Order Sheet
IN THE HIGH COURT OF SINDH, KARACHI

Cr. Bail Application No.2803/2024
(Azeem Ullah Vs. The State)

26.06.2025

Mr. Kamran Asghar, advocate for applicant / accused.
Ms. Seema Zaidi, Additional Prosecutor General Sindh.

Arshad Hussain Khan, J.- The applicant/accused **Azeemullah** son of Muhammad Yousuf through instant bail application seeks post-arrest bail in F.I.R. No.291 of 2023 under Section 392/397/302/34 P.P.C., registered at PS Manghopir, Karachi.

2. The facts of the case need not be reiterated here as the same have already been stated in the FIR, and the instant bail application.

3. Learned Counsel for the applicant / accused while referring to the statement alongwith certified copies of depositions of PW Anwar Rehman (complainant) and PW-Abdul Rasheed alleged eye witness of the incident recorded before the Trial Court, inter-alia, submits that eye-witnesses has not identified the present applicant / accused during his evidence before the Trial Court to be the culprit of the incident, as such, the case of the applicant / accused calls for further enquiry and he is entitled for grant of bail at this stage. He further contends that in the case wherein the applicant / accused was in custody when the alleged confession of the instant crime was made, has been acquitted. He prays that the applicant / accused may be released on bail at this stage by extending the benefit of doubt.

4. Learned Deputy Prosecutor General after going through the dispositions of witnesses frankly concedes that the case of the applicant / accused, in view of dispositions of the eye witness, has become of further enquiry.

5. I have heard learned counsel for applicant / accused and learned Deputy Prosecutor General, Sindh as well as carefully perused of the record with their assistance.

6. A perusal of evidence of complainant and eye witness of the incident recorded before the Trial Court shows that they have failed to implicate the present applicant in the present crime, even otherwise, the eye witness did not identify the applicant / accused to be the culprit of the incident, as such, the case of the prosecution become doubtful and calls for further enquiry. For the sake of ready reference the relevant portion of the deposition of the eye witness namely Abdul Rasheed is being reproduced hereunder:-

“The accused persons shown to me through video link (Azeemullah and Samiullah) are not the same persons who were present at the time of incident and made fire upon deceased Abdul Salam.”

7. In the case of *Resham Khan and another v. The State and another* [2021 SCMR 2011] the Supreme Court of Pakistan has extended the benefit of doubt to an accused / person even at bail stage by observing that the basic idea is to enable the accused to answer criminal prosecution against him rather than to rot him behind the bar. Every accused is innocent until his guilt is proved and benefit of doubt can be extended to the accused even at bail stage if the facts of the case so warrant. The basic philosophy of criminal jurisprudence is that the prosecution has to prove its case beyond reasonable doubt and this principle applies at all stages including pre-trial and even at the time of deciding whether accused is entitled to bail or not.

8. Record reflects that the name of the applicant / accused is not mentioned in the FIR as the same was lodged against unknown persons. The record also shows that in the crime in which applicant was earlier arrested, he has been acquitted. Further, the applicant/accused is not previous convict nor a hardened criminal. Moreover, he is behind the bar since his arrest and is no more required for any investigation nor the prosecution has claimed any exceptional circumstance, which could justify keeping him behind the bars for an indefinite period pending determination of his guilt.

9. In view of the above facts and circumstances, I am of the opinion that prima facie, the applicant/accused has succeeded to bring his case within the purview of further inquiry, as such, he is entitled to

bail and for this reason, the applicant/accused is admitted to bail subject to his furnishing solvent surety in the sum of Rs.1,00,000/- and P.R. Bond in the like amount to the satisfaction of the trial Court.

Needless to mention here that any observation made in this order is tentative in nature and shall not affect the determination of the facts at the trial or influence the trial Court in reaching its decision on the merits of the case. It is, however, made clear that in the event if, during proceedings, the applicant/accused misuses the bail, then the trial court would be competent to cancel his bail without making any reference to this Court.

Instant Bail Application stands disposed of in the above terms.

JUDGE