

THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Crl. Bail Application No.S-244 of 2023

DATE ORDER WITH SIGNATURE OF JUDGE

For orders on office objections.
For hearing of main case.

DATE OF HEARING 11.07.2023.

APPLICANT: Mr. Imtiaz Ali Malano Advocate for the applicant.

FOR THE STATE: Mr. Siraj Ahmed Bijarani, Assistant Prosecutor General.

ORDER

MOHAMMAD ABDUR RAHMAN, J:- This is an application under Section 497 of the Code of Criminal Procedure, 1898, filed by the Applicant seeking the concession of Post-Arrest Bail in Crime No.20 of 2022, registered under Section 395, 412, 342 of the the Pakistan Penal Code, 1860, at Police Station Budani, Hyderabad. The Applicants application for bail bearing No. 494 of 2023 was rejected by the Illrd Additional Session Judge, Hyderabad on 9 March 2023.

The applicant is one of the co-accused implicated in a crime regarding the theft of a trailer loaded with 60 tons of rice on 22 September 2022. FIR No. 20 of 2022 was lodged on 22 September 2022 and in which FIR the Applicant was not nominated as an accused. After investigating the matter, the police implicated the Applicant by stating that two trucks with rice were found in his custody.

Counsel for the Applicant has pleaded that as per the challan, out of the six persons who are accused, four co-accused have been admitted on bail in so much as Ghulam Shabbir, Nizam Uddin and Ghulam Farooque were granted Pre Arrest Bail by the Illrd Additional Session Judge Hyderabad, while Mumtaz Ali was granted bail by this Court in Criminal Bail Application NO. S-192 of 2023. Counsel for the applicant contends that on the basis of rule of consistency he is also entitled for grant of bail.

Learned Assistant Prosecutor General, while opposing grant of bail to the applicant, has admitted that bail has been granted to the co-accused.

I have heard the learned counsel for the Applicant and the learned Assistant Prosecutor General as well as have perused the material available on record. Admittedly, the Applicant was not nominated in the FIR. At any given time, only two of the accused have been in jail namely Mumtaz Ali and the Applicant. As Mumtaz Ali, to whom admittedly a different role of having in his custody the weapon that was purportedly used in the offence, has been granted bail by this Court in Criminal Bail Application NO. S-192 of 2023 and a number of the other accused to whom a greater role has been given have all secured bail, as per rule of consistency the same concession should be extended to the Applicant. Accordingly, this bail application was allowed vide a short order dated 10 July. 2023, and the Applicant was granted post-arrest bail, subject to furnishing a solvent surety in the sum of Rs.50,000/- (fifty thousand rupees) and P.R Bond in the like amount to the satisfaction of learned trial Court and the foregoing are the reasons of the same.

The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE

Hyderabad Dated 14 July 2023

Irfan Ali