

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.
Criminal Bail Application No.S-251 of 2015

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For order on office objection.
2. For hearing.

08-05-2015

Mr. Kashif Hussain Agha advocate for applicant.

Mr. Mushtaque Ahmed Abbasi D.D.P.P. for the State.

The applicant has prayed for post arrest bail in crime No.11/2015 of PS Kunri under section 23(I) Sindh Arms Act, 2013.

Learned counsel for the applicant while narrating the facts which have been verified by going through the FIR available at page No.13 of the case file has stated that the applicant was arrested in crime No.09/2013 of PS Kunri under sections 353, 504, 506(2) PPC on 19-01-2015. During interrogation of that crime, he disclosed about the crime weapon available in his house and led the police party to his house and produced one 30 bore pistol having magazine loaded with three live bullets, regarding which, he could not produce any valid license. Such memo of recovery was prepared accordingly at the spot and the applicant was brought at police station where the instant FIR was registered against him.

Mr. Kashif Hussain Agha, counsel for the applicant has argued that against the applicant besides present case, the two other cases bearing crime No.09/2013, under sections 353, 504, 506 (2) PPC and crime No.10/2015, under section 11 PEHO, 1979 were registered at the same police station in which he has been granted bail by the learned trial Court. He has next contended that the investigation of the offence is complete and applicant is no more required for further inquiry or investigation and his confinement in the Jail is of no use for the prosecution. He has also contended that in fact, applicant has been falsely implicated in this case on

account of dispute on distribution of water with the Municipal authorities, and such report was published in daily “Ibrat” dated 22-01-2015. In support of his arguments, learned counsel has relied upon the case of ‘Abdul Rehman v. The State’ report in 2014 YLR 2083 and the case of ‘Ibrahim v. The State’ reported in 2014 YLR 2398 and lastly has requested for release of the applicant on bail.

Mr. Mushtaque Ahmed Abbasi, learned D.D.P.P. for the State, on the other hand, has opposed the grant of bail to the applicant by arguing that the applicant is involved in a crime carrying punishment for more than ten years as such the offence falls within prohibitory clause of section 497 (1) Cr.P.C.

I have heard both the counsel and perused the material as is available on record. Per facts of the prosecution case, the applicant was already arrested in crime No.09/2013 of the same police station, during interrogation of which, he admitted possessing a weapon and led the police party to his house wherefrom he produced a pistol of 30 bore having magazine containing three live bullets. After due investigation, the charge-sheet in terms of section 173 Cr.P.C. has been filed against the applicant, as a result thereof, he is facing trial. The record reflects that the prosecution has cited only police officials in the charge-sheet presented before the Court concerned on 03-02-2015 and I have been informed that yet no progress in the trial has been made although the witnesses being police officials, their presence could have been procured without much ado. The failure of prosecution to proceed with the matter despite elapse of about 04 months of arrest of the applicant does not reflect well on their performance and this circumstance can be considered in favour of applicant at least for the purpose of bail. Learned D.D.P.P. for the State though has opposed grant of bail to the applicant but is not able to confirm whether the applicant has any past criminal history or he has been previously involved in a case of similar nature. The fact that the applicant has been granted bail

in two other connected cases cannot be also overlooked. As has been stated above, the entire case is dependent upon the evidence of police officials, which, keeping in view their official position is not likely to be tempered with. The investigation is over and the captivity of the applicant is of no benefit to the prosecution in any manner. Mere severity of punishment of the offence cannot be considered a ground for refusing bail to the applicant.

Under the circumstances, while following the dicta laid down by this Court in above referred cases, I grant the bail to the applicant on his furnishing a solvent surety in the sum of Rs.50,000/- (Rupees fifty thousand only) and PR Bond in the like amount, to the satisfaction of trial Court.

Criminal bail application stands disposed of.

JUDGE

A.C