

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2272 of 2024

Applicant : Muhammad Aslam Khan S/o Baqi Khan
through Mr. Muhammad Imran Kalmati,
Advocate

Respondent : The State through
Mr. Malik Saadaqat Hussain, Advocate for
SSGC & Mr. Qamar Din, APG

Date of hearing : 12.02.2025

Date of order : 12.02.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.41/2020 for the offence under Sections 15 & 24 of Gas Theft Control and Recovery Act, 2016 of PS SSGC, Karachi, after his bail plea has been declined by the learned Sessions Judge, Malir vide order dated 21.03.2023.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Per learned counsel for the applicant, applicant is innocent and has falsely been implicated in this case; that in fact in the year 2019 during COVID, he was given the hotel to someone and went to his native village; as such, he has no knowledge about the said offence; that the applicant came to know the incident after registration of the FIR, otherwise he has no concerned with the alleged offence; that one of the witnesses has become hostile, as such, he is entitled for concession of bail.

4. On the other hand, learned counsel for the SSGC as well as learned APG opposes for confirmation of bail. However, learned APG pointed out that previously on same set of evidence, FIR NO.41/2020 was registered against the same applicant/accused.

5. Heard arguments and perused the record.

6. From perusal of record, it reflects that on the tip of information, SSGC conducted raid at Al-Maka Shinwari Restaurant and Fast Food and found that there is direct connection with rubber pipe from SSGC line and was connected with sui gas connection of the hotel and there is a tandoor; 5 stoves of 32 nozzles, one stove of 12 star and one stove of 24 nozzles; as such, the complainant party disconnected the same and all the articles were taken into custody and such memo was prepared and the instant FIR was lodged. As per learned counsel for the complainant, since the accused found involved in the huge amount of gas theft, as such, a tentative amount of Rs.45 lacs is to be paid by the accused. At bail stage, only tentative assessment is to be made. Sufficient material is available on record to connect the applicant with the commission of offence. No ill-will or malafide has been pointed out by the learned counsel for the applicant for falsely implicated the applicant in the present case.

7. Further, the concession of pre-arrest bail cannot be allowed to an accused person unless the Court feels satisfied with the seriousness of the accused person's assertion regarding his intended arrest being actuated by *mala fide* on the part of the complainant party or the local police but not a word about this crucial aspect of the matter is found as no *mala fide* is made on the part of the complainant to believe that the applicant/accused has been implicated in this case falsely. In this context, the reliance is placed to the case of **'Rana Abdul Khaliq v. The STATE and others' [2019 SCMR 1129]**. In addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual course of law, arrest in cognizable cases; protection to the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*, it is not a substitute for post-arrest bail in every run of the mill criminal case as it seriously hampers the course of the investigation.

8. In view of the above, the instant bail application is **dismissed**. Resultantly, the interim pre-arrest bail granted to the applicant/accused vide order dated 03.10.2024 is hereby recalled.

9. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant/accused on merits.

JUDGE

Kamran/PA