

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Criminal Bail Application No. 844 of 2024
(*Nouman Ahmed v. The State*)

Date	Order with signature of Judge
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For hearing of bail application

27.05.2024

Mr. Muhammad Nizar Tanoli, advocate for the applicant
Ms. Naheed A. Shahid, advocate for the complainant
Mr. Mumtaz Ali Shah, Assistant Prosecutor General for the State

The facts in brief necessary for disposal of the instant bail application are that the applicant was working with the complainant in his distribution business; he with the rest of the culprits supplied blue band butter to its customers, obtained a sale price worth Rs. 2,50,00,000/-and misappropriated the same, for which the present case was registered.

The applicant having been refused bail by learned Courts below, has sought the same from this Court by way of the instant bail application u/s 497 Cr. P.C.

It is contended by learned counsel for the applicant that the applicant is innocent and has been involved in this case falsely by the complainant based on the exculpatory judicial confession of co-accused Muhammad Yasir and the offence against him does not fall within the prohibitory clause, therefore, he is entitled to be released on bail on the point of further inquiry. In support of his contention, he relied upon the cases of *Dr. Waqar Hameed v. The State and another* (2020 SCMR 321) and *Ali Raza v. the State and others* (2022 SCMR 1223).

Learned Assistant PG for the State and learned counsel for the complainant have opposed to release of the applicant on bail by contending that he has committed the financial death of the complainant. In support of their contention, they relied upon the case of *Sherk Dil Khoso v. The State* (2000 P Cr.LJ 1748).

Heard arguments and pursued the record.

The FIR of the incident has been lodged with a delay of about 14 days; such delay could not be overlooked. The offence alleged against the applicant does not fall within the prohibitory clause. The exculpatory judicial confession of co-accused Muhammad Yasir could hardly be used against the applicant. The case has finally been challaned and there is no likelihood of absconsion or tampering with the evidence on the part of the applicant. In these circumstances, a case for the release of the applicant on bail on point of further inquiry is made out.

The case law which is relied upon by learned counsel for the applicant has a preference over the case law which is relied upon by learned APG for the State and learned counsel for the complainant simply for the reason that it is laid down by the Apex Court.

Under the given circumstances, the applicant is admitted to bail subject to his furnishing surety in the sum of Rs.500,000/- (rupees five lacs only) and P.R bond in the like amount to the satisfaction of the learned trial Court.

Instant bail application is disposed of accordingly.

J U D G E