

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr.B.A No.1455 of 2015

Date Order with signature(s) of Judge(s)

For hearing of Bail Appliation

01.12.2015.

Mr. Muhammad Imran Meo, advocate for the Applicant.
Ms. Akhtar Rehana, Addl. P.G.

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The applicant is facing trial in crime No.177/2010 under Section 302/34 PPC, P.S Landhi.

It is contended by the learned counsel that the applicant / accused was arrested on 12.8.2015 in FIR No.260/2015 under Section 23(i)A Sindh Arms Act, and subsequently booked in blind FIR No.243/2015 under Section 302/34 PPC of P.S Khawaja Ajmer Nagri. However, in crime No.260/2015 he has been granted bail and crime No.243/2015 has been disposed of after the police report to the learned Magistrate for disposal of crime No.243/2015 under 'A' class. Therefore the applicant has been released under **Section 497(ii)** Cr.P.C. Subsequently applicant has been booked in a blind **FIR No.177/2010** merely on concocted story that applicant has admitted before police that he was involved in crime No.177/2010. It is further stated by the learned counsel that statement before the police has no value in the eyes of law.

Heard the learned counsel for the applicant and counsel for the State. I have observed as follow:-

1. The accused was initially arrested for an offence under **Section 23(i)A** of Sindh Arms Act, 2013 in crime No.260/2015, P.S Khawaja Ajmer Nagri. Thereafter applicant/accused was shown arrested in another crime No.243/2015 under Section 302/34 PPC of the same P.S Khawaja Ajmer Nagri.

2. Accused has been admitted on bail in FIR No.260/2015 under Section 23(i)A Sindh Arms Act, 2013 by the Vth Addl. Sessions Judge Karachi-Central on **15.9.2015**. However, before release the accused was said to have been involved in crime No.243/2015.

3. The crime No.243/2015 stand quashed under Section 173 read with Section 497(2) Cr.P.C as the FIR has been declared A-class and the accused / applicant was released by order of VIIth Judicial Magistrate Central-Karachi on 28.8.2015.

4. Now he is in custody in the present **FIR No.177/2010** under Section 302 registered at P.S Landhi, after release orders in the aforesaid cases. The prosecution bases his involvement in the five years old blind FIR on the basis of his admission of guilt before the police and identification by a witness in identification parade held on **07.9.2015**.

5. Admittedly accused was in police custody since 15.8.2015 and there is delay of more than 20 days in holding the identification parade. Explanation offered by the prosecution is that the accused was in jail custody. Be that as it may, it is failure of the prosecution to comply with the requirement of time for conducting identification parade.

6. Blind FIR which is 05 years old and the identification is delayed coupled with manner and method of arrest of the accused by showing him involved in blind case is sufficient to hold that the case against the applicant is case of further inquiry.

7. Learned counsel for the applicant has relied upon the cases reported in **2014 P.Cr.L.J 1215** Sohail ..Vs.. The state & **2013 YLR 208** Mughal Khan ..Vs..

The State, which squarely supports the case of the applicant/accused.

In view of the above, circumstances, applicant/accused is admitted to bail subject to furnishing solvent surety in the sum of Rs100,000/- and P.R bond in the like amount to the satisfaction of the trial Court.

The above bail order has been passed in compliance with the directions of the Hon'ble Supreme Court as contained in the case of Muhammad Shakeel ..Vs..The State (PLD 2014 SC 458).

Needless, to mention here that the observations made hereinabove are tentative in nature and should not influence trial Court while deciding the case of the applicant/accused.

JUDGE

SM