

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr.B.A No.1381 of 2015

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

For hearing of bail application

09.12.2015.

Mr. Arshad Khan, advocate for the Applicant.
Ms. Akhtar Rehana, A.P.G.

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Applicant/Accused is facing trial in crime No.299/2015 for an offence under Section 23-A(1) S.A.A. P.S. Shahrah-e-Noorjahan, Karachi. As per report complainant Hassan Irfan called police on **15** at the spot where he has already overpowered the accused after hitting his bike with his car. Police arrested him first under an offence under Section 392 and registered FIR No.298/15. It is alleged that at the time of arrest accused/applicant was carrying TT pistol 30 bore and 04 live bullets. ASI Rasool Bux registered another case bearing crime No.299/2015. This bail after arrest is in crime No.299/2015 and applicant has already obtained bail in crime No.298/2015 from trial Court.

Heard the learned counsel for the applicant and learned A.P.G and I have observed as follow:-

- i. That the accused has been alleged to have committed robbery near petrol/CNG pump where the complainant has come for CNG and the said complainant after being robbed chased the applicant in car and hit motorcycle of accused, therefore, he was overpowered by the complainant himself.

- ii. Despite the fact that place of incident of petrol pump and the accused was chased by the complainant, the private person must have been gathered after accident of the car of complainant with the motorbike of accused.
- iii. Admittedly the motorbike as per prosecution record is owned by the father of the accused / applicant and the applicant who was said to have a T.T pistol with him did not resist or use pistol to escape. Not a single fire has been shot by him to save himself.
- iv. The complainant single handedly overpowered armed accused after being robbed as no one is named as witness except the police and complainant in both cases.
- v. Trial Court has already granted bail in main crime No.298/2015 under Section 392 PPC. The prosecution witness in both the cases is the complainant alone and three police officials.
- vi. Learned APG seeks protection of **Section 34** of Sindh Arms Act, 2013 to impress the Court that the arrest was lawful, **Section 34** ibid is indeed available for the police but Court has to see other circumstances, as well in which the incident has taken place and accused has been arrested.

In view of the above facts, the accused / applicant is admitted to bail subject to furnishing solvent surety in the sum of Rs.50,000/- 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), whereby I have not reproduced the entire contents of the FIR as well as the details of the

arguments so raised by the learned Counsel for the applicant as well as learned A.P.G.

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

