

IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Application No. 977 of 2017

Applicant: Muhammad Younus, son of Shamsuddin,
through Advocate Ms. Roshna Leghari.

State: Ms. Seema Zaidi, D.P.G. along with I.O. SI
Moin Khan, Police Station Aziz Bhatti.

Complainant: Faizan Khalil, son of Khalil Ahmed.

Date of hearing: 31.07.2017.

ORDER

ADNAN-UL-KARIM MEMON,J: The Applicant namely Muhammad Younus is seeking post-arrest bail in F.I.R No. 101/2017, registered for offence under section 394 P.P.C. at Police Station Aziz Bhatti, Karachi, East.

2. Brief facts of the case are that on 30.03.2017 Complainant/Faizan Khalil lodged F.I.R with allegation that he is student of Muhammad Ali Jinnah University. After exam he was returning with his friend namely Hafiz Muhammad Usman Ahmed in his Suzuki Mehran car and stopped at Sir Shah Suleman Bridge because of traffic jam. At about 06:45 p.m. one person aged about 20 years came with pistol and snatched mobile phone from his friend (Hafiz Muhammad Usman). Complainant and his friend resisted and during scuffle Complainant received injury on his right hand. Two police person rescued them and arrested accused. During body search of accused 30 bore pistol with magazine was recovered by police. Upon query of police official accused disclosed his name as Muhammad Younus, son of Shamsuddin. Complainant further alleged that accused threw mobile phone after seeing police officer. Accused was brought at police station and thereafter Complainant lodged F.I.R. against accused under section 394 P.P.C. Police also lodged separate F.I.R against accused under section 23(1)A of Sindh Arms Act 2013.

Investigating officer arrested accused and interrogated him, visited place of incident, recorded statement of witnesses and sent recovered pistol to FSL. Accused (Applicant) and Complainant were referred to

hospital for treatment, obtained reports. On 17.4.2017 Investigating Officer submitted Charge Sheet before learned Judicial Magistrate, Karachi, East. Applicant moved bail application before learned Trial court which was dismissed vide order dated 6.6.2017.

3. Ms. Roshna Leghari, learned counsel for Applicant has contended that Applicant is innocent and has been falsely implicated by Complainant because Applicant has nothing to do with the alleged crime; that scuffle took place between Complainant and Applicant at the spot because vehicle of Complainant and Applicant touched. Therefore, Complainant with malafide intention has leveled false allegation of dacoity against Applicant. That Complainant being influential person has involved Applicant in the present crime without any reason. That no snatched mobile phone is recovered from the possession of Applicant leading to the conclusion that no incident has taken place as alleged by the Complainant therefore, case requires further inquiry. That police has booked Applicant in the instant crime by foisting 30 bore pistol. That no one from the public has been cited as witness of the alleged incident. That at the spot no police official had come therefore, police officer is wrongly cited as witness. That entire story is managed by Complainant in connivance with police; that learned judicial magistrate accepted the challan by taking cognizance under section 397, 34 P.P.C, therefore the case of prosecution is of two versions. She lastly prays for grant of post- arrest bail to the Applicant.

4. Ms. Seema Zaidi, learned D.P.G. for the state has opposed for grant of bail to the Applicant.

5. I have heard learned counsel for the parties and perused the material available on record.

6. The Applicant was caught red handed with the weapon and Complainant has identified him to be culprit of the offence. Applicant has been charged with dacoity/snatching of mobile, which is a rampant offence in the society. Investigating Officer recorded statement of witnesses who have supported the prosecution case without any ostensible reason to falsely implicate Applicant in the present crime. FSL Report of recovered pistol is positive which prima facie connects the Applicant with the alleged crime. Record reflects

that Prosecution has collected sufficient incriminating evidence to connect Applicant in the instant crime. Applicant has failed to establish false implication by the Complainant. Mere saying that there was scuffle between the Complainant and Applicant on certain issue is a factual controversy that cannot be determined at the bail stage.

7. In view of the above facts and circumstances of the case Applicant has failed to make out case for grant of bail at this stage. Therefore, Bail Application is dismissed.

8. The above observation is tentative in nature which shall not prejudice the case of either party at the trial. However, learned Trial court is directed to record evidence of material witnesses within a period of two months. Thereafter, Applicant will be at liberty to move fresh bail application before learned Trial court on fresh ground, if any.

9. Foregoing are the reasons of short order dated 31.07.2017.

JUDGE