

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

CrI. Bail Appln: No.S-358 of 2018.

Muhammad Akbar Applicant.

Versus.

The State. Respondent.

Syed Tarique Ahmed Shah, Advocate for the applicant.

Ms. Romeshan Oad, APG alongwith Inspector Abdul Razzaq Khan
SHO PS: Cantt: Hyderabad.

Mr. Raja Jawad Ali Saahar Advocate for the complainant.

Date of hearing and order 27.06.2018.

ORDER

IRSHAD ALI SHAH, J. It is alleged that the applicant committed theft of motorcycle of complainant Azhar Shaikh, when it was parked within the compound of Sessions Court, Hyderabad, for that the present case was registered.

2. On having been refused post-arrest bail by the learned trial Magistrate and learned Ist. Additional Sessions Judge Hyderabad, the applicant now has sought for the same from this Court by way of making the instant bail application under section 497 Cr.P.C.

3. It is contended by the learned counsel for the applicant that he being innocent has been involved in this case falsely by the complainant, the name of the applicant is not appearing in FIR though it is lodged with delay of about nine days to the incident, the offence is not falling within prohibitory clause, there is no recovery of any sort from the applicant even after his arrest and he is in custody since six months. By contending so, he sought for release of the applicant on bail on point of further inquiry. In support of his

contention, he relied upon the case of **Muhammad Tanveer v. The State and another (PLD 2017 SC 733)**.

4. Learned counsel for the complainant has opposed to grant of bail to the applicant by contending that his case is at the verge of its disposal and he has remained in absconsion before his formal arrest in the present case.

5. Learned APG has supported the orders of the learned trial Magistrate and that of learned Ist. Additional Sessions Judge, Hyderabad.

6. I have heard learned counsel for the parties and perused the record.

7. The FIR has been lodged with unexplained delay of nine days. It is not containing the name of the applicant, which appears to be significant. There is no recovery of any sort from the applicant even on his arrest. The offence is not falling within prohibitory clause and applicant is in continuous custody since six months. In these circumstances, it is rightly being contended by the learned counsel for the applicant by making reference to case of **Muhammad Tanveer** (Suprta), that the applicant is entitled to grant of bail, as his case is calling for further inquiry.

8. It is well settled principle of law that the grant of bail once made out on merit could not be withheld on point of absconsion alone. The reference in that respect may well be placed upon case of **Mitho Pitafi v. The State**, which is reported at **2009 SCMR 299**.

9. Above are the reasons for short order dated 27.06.2018, whereby the applicant was admitted to bail subject to furnishing surety in sum of Rs.30,000/- and P.R. Bond in the like amount to the satisfaction of the learned trial Magistrate.

JUDGE