## Order Sheet IN THE HIGH COURT OF SINDH AT KARACHI Cr. Bail Application No. 935 of 2019

Date Order with Signature of Judge

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## FOR HEARING OF BAIL APPLICATION

<u>Date of short order:</u> <u>18.07.2019.</u>

Applicant Qaiser Butt through Mr. Riaz Ahmed Bhatti, advocate. Complainant Khalid Hussain through Mr. Javed Ahmed Baloch, advocate.

State through Mr. Sagheer Ahmed Abbasi, APG.

## ORDER

FAHIM AHMED SIDDIQUI, J:- This order will suffice for disposal of the instant pre-arrest bail application filed by the applicant Qaiser Butt son of Muhammad Riaz. The applicant is involved in a F.I.R. bearing number 101/2019, which was lodged by the complainant under Sections 380, 457 & 34 PPC at Police Station Bin Qasim, Karachi.

- 2. After lodgement of the said F.I.R., the applicant succeeded in getting ad interim relief from this Court vide order dated 05-07-2019 after rejection of his similar plea from the lower forum.
- 3. I have heard the arguments advanced and have gone through the material available before me or placed during arguments. From whatever argued and cited, I have observed as under:
  - a) Date of incident has been described in the body of F.I.R. as 14.06.2019 during night time in a duration of 0200 hours to 0500 hours but it was reported on the same date at 4:20 PM. The delay in lodgement of F.I.R. is not properly explained.
  - b) In the F.I.R., no source of information has been mentioned nor any prosecution witness has been cited. Even the reasons for believing that the applicant is one of the felonious person regarding the alleged incident.
  - c) As per the interim Final Report (Challan), the name of the applicant was put by the Investigator in column 2, which

indicates that after investigation, the applicant was found innocent.

- d) During investigation, it was noticed by the Investigator that the applicant was available at the alleged time of incident in Aga Khan Hospital with his wife.
- e) The offence alleged, does not fall within the prohibitory clause of Section 497 CrPC and in such cases rule is bail not to jail.
- f) The nominated co-accused, in the instant matter, has been released on bail as such the pre-arrest bail plea of the applicant could not be denied in the light of dictum laid down by the Apex Court in a case reported as Muhammad Ramzan v. Zafarullah 1986 SCMR 1380.
- 4. In view of the above observation, I am of considered opinion that a case of pre-arrest bail has been successfully made out, hence the interim bail order passed in favour of the applicant is confirmed on the same terms and conditions.
- 5. Before parting, I would like to make it clear that if the applicant after confirmation of pre-arrest bail will not appear before the trial Court and the trial Court is satisfied that the applicant becomes absconder and fugitive to law and trial, then the trial Court is fully justified and competent to take every action against the applicant and his surety including cancellation of bail without making a reference to this Court.
- 6. These are the reasons for my short order dated 18-07-2019 and I would like to make it clear that, the above observations are purely tentative in nature, and the same are only for the purpose of disposal of instant pre-arrest bail application and would have no impact or effect on either party's case during trial.

	J	UDGE
Dated:		