

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Bail Application No.1831 of 2017.

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

For hearing of Bail Application.

05.01.2018.

Malik Fayyaz Ahmed, Advocate for the applicant.
Ms. Rahat Ahsan, D.P.G.
SIP Syed Hamidullah, P.S. Malir City.

It is unfortunate that counsel for the applicant is absent. He was also absent on the first date of hearing i.e. 27.11.2017. On 12.12.2017 none was present for the prosecution, however, counsel for the applicant was present and notice was issued to the complainant. Today, police report says that they are unable to serve the complainant because address of the complainant available with the prosecution is defective. Relevant excuse of not affecting service on complainant is reproduced as follows:-

"It is prayed before the Honourable High Court that a notice was received at this P.S. regarding bond down the complaint namely Irshad S/o. Ali Gohar for appearing before the Honorable High Court in the next date of hearing 05.01.2018, in this Connection E/O SIP-Syed Hamdullah of this Police Station made compliance of the Honourable High Court to trace the above applicant in the area mention of the record of this Police Station and area of Umar Marvi Goth to trace but not success due to which the area old village and Kachi Abadi so far the above no any information could be ascertained."

Be that as it may, I have heard the learned D.P.G. and gone through the file. The contents of the F.I.R. admittedly does not constitute the offence said to have been reported by complainant Irshad S/o. Ali Gohar whose address as per the police report is not traceable. It is strange that despite the fact that CNIC and Cell phone number of the complainant is mentioned in the F.I.R., the prosecution is unable to locate him. The F.I.R. has been lodged on **04.6.2017** when the accused was already in the custody of City Police Station, Malir in another crime No.95/2017. The complainant was informed of arrest of accused on **02.6.2017** and after consulting his friends he identified the accused in police custody on **03.6.2017** and next day on 04.6.2017 at 2100 hours he lodged F.I.R. The complainant has not explained delay in lodging F.I.R. by 10 days. There was no identification parade of accused. There is no record of the fact that how the police came to know that the Complainant Arshad S/o. Ali Gohar was also cheated by the applicant. The accused has already been challaned, therefore, he is not required for further investigation. The report submitted by the prosecution today suggests that complainant is not available with the prosecution to appear before the relevant court for evidence against the applicant in Challan No.94/2017, since he is not traceable.

In view of the above circumstances, the applicant/accused Ghulam Farid is admitted to bail subject to his furnishing solvent

surety in the sum of Rs.50,000/- (Rupees fifty thousand only) and
P.R. Bond in the like amount to the satisfaction of trial Court.

JUDGE

Arif