

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Criminal Bail Application No. 1926 of 2017

Date	Order with Signature of the Judge
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1. For hearing of Bail Application.

For Applicant/accused	:	Mr. Waqar Alam Abbasi advocate
For complainant	:	Mr. Pervez Ahmed Memon advocate
For State	:	Ms. Rahat Ahsan Addl: P.G
Heard on	:	21.06.2018
Decided on	:	26.06.2018

Mrs. Kausar Sultana Hussain, J.:- On dismissal of bail Application No. 1523/2017 by the trial Court, vide order dated 07.12.2017, the applicant/accused has approached this Court by filing instant bail application under Section 498 Cr.P.C, for pre-arrest bail in case FIR No. 563/2017, under Section 379/186/506-B/147/148/149/447/511 PPC, registered at P.S. Site Superhighway Industrial Area, Karachi.

2. Precisely facts of the prosecution, as unfolded in FIR by complainant Inspector Anwar Ali of Market Committee are that on 04-12-2017 at about 04:00 P.M on plot of parking area situated in front of Chowngi Gate, Haji Ameer Muhammad Khan, Gul Khan, Shaista Khan and other 20-25, identifiable, duly armed, were trying to illegally occupy the parking area and by force of weapons they took away the material of Market Committee from said plot viz: rods, pipes, drums and other construction material in Truck by using Crane. Upon which he alongwith other staff tried to stop them, however, they used abusive language and extended threats of dire consequences. Thereafter, he informed his high-ups and finally present FIR was lodged.

3. At the very outset the learned counsel for applicants/accused argued that applicants/accused are absolutely

innocent and have been falsely implicated in present crime with malafide intention and ulterior motives. He next contended that there is two days unexplained delay in lodgment of FIR, which create serious doubts in the prosecution story. He also contended that civil litigation is already pending with regard to dispute of property in question and present FIR is tactics to pressurize and harass the applicants/accused. Amongst other arguments the learned counsel for applicants/accused contended that there is no independent private witness and all witnesses are interested witnesses, which makes the prosecution story highly doubtful. He lastly contended that case of applicants/accused does not fall within the ambit of prohibitory clause, therefore, their bail may be confirmed.

4. Learned Additional. P.G assisted by learned counsel for complainant vehemently opposed the present bail. They argued that property in question relates to Market Committee and the applicants/accused were trying illegally to occupy the same. They next contended that applicants/accused have also taken away the material belong to Market Committee lying in the said plot and upon intervention of complainant they issued him threats of dire consequences. They lastly contended that sufficient material is available on record against the applicants/accused, therefore, present bail may be rejected.

5. After hearing arguments and perusal of record I am of the view that civil litigation regarding the property of New Sabzi Mandi is already pending between the parties before this Court. Further the applicant/accused Haji Ameer Muhammad Khan has submitted an application to S.H.O Site Superhighway, complaining therein that Chairman and Vice Chairman of Sabzi Mandi pressuring him for selling his Plot to them or taking another plot in lieu of

his plot, which offer being owner is not acceptable to him. Besides, it is a matter of alleged theft rioting, criminal trespassing and obstructing of public servant and criminal intimidation, therefore, this case is out of jurisdiction of Anti-Encroachment Court under Sindh Public Properties (Removal of Encroachment) Act. Besides, the case of the prosecution is that 20-25 armed persons tried to occupy illegally the parking area of Subzi Mandi and they removed construction material from there and they also beaten them and extended threats of dire consequences, therefore, penal provisions have been inserted in this FIR. However, sections 147/148 and 447 of PPC are bailable and offence under section 379/186 and 506 of PPC do not fall within prohibitory clause as at the most conviction in these crimes is up to (03) three years. Section 506 PPC does not attract as no fact of causing grievous hurt has come on record and the matter of extending threats of dire consequences requires further inquiry.

6. In view of what has been discussed above, the case of applicants/accused requires further inquiry, hence I feel no hesitation to confirm ad-interim pre-arrest bail order granted earlier in favour of applicant/accused on 15.12.2017.

7. It is pertinent to mention here that observations recorded hereinabove are tentative in nature and will not prejudice the case of either party.

J U D G E