

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Cr.B.A.No.1758 of 2019

Before:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Irshad Ali Shah

Muhammad Ismail..... Applicant

Versus

The State Respondent

Date of Hearing: 28.02.2020

Date of Decision: 28.02.2020

Mr. Siraj Ahmed Mangi, advocate for the applicant.

Mr. Ali Haider Saleem, DPG.

ORDER

IRSHAD ALI SHAH, J:- It is alleged that the applicant with rest of the culprits by committing trespassed into house of complainant Shahid Ali after keeping him and his family members under fear of death robbed them of their gold ornaments and other valuable articles, when were about to make their escape good they were intercepted by police party on duty, there arose exchange of fires between them and police party, as a result whereof one of the culprit died other named Muhammad Nadeem was apprehended at the spot, while two made their escape good, one amongst them is said to be the applicant; for that the present case was registered.

2. The applicant on having been refused post arrest bail by learned Judge Anti-Terrorism Court No.XII Karachi has sought for the same from this Court by way of the instant application u/s 497 Cr.P.C.

3. It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the police at the instance of complainant party on the basis of statement

of co-accused Muhammad Naveed, which could hardly be treated as evidence, there is no identification parade of the applicant and he is in custody since ten months, therefore, he is entitled to be released on bail on point of further enquiry.

4. Learned DPG for the State has opposed to grant of bail to the applicant. By contending that the applicant is named in FIR as "Chirya", he is a habitual offender and has been implicated fully in the commission of offence by the complainant in his evidence, which is recorded by the learned trial Court.

5. We have considered the above arguments and perused the record.

6. The identification parade of the applicant might not have been held but there could be made no denial to the fact that such request was made by the police but was not accepted by the learned Magistrate having jurisdiction for certain reasons. The applicant of course was identified formally by the complainant during course of investigation and subsequently at trial at the time when his evidence was recorded. The applicant is said to be named in the FIR as 'Chirya'. In such situation, it would be wrong to say that he has been involved in this case falsely by the police on the basis of statement of co-accused Muhammad Naveed alone. In these circumstances, it would be premature to say that the applicant is innocent. The applicant may be in custody since ten months, but such custody itself may not be a reason to enlarge the applicant on bail in case like the present one which is affecting the society at large specially when the

applicant is found to be involved in some other cases of like nature. There appear reasonable grounds to believe that the applicant is guilty of the offence for which he is charged.

7. Having discussed above, it may be concluded safely that no case for grant of bail to the applicant is made out. Consequently, the instant bail application is dismissed with direction to learned trial Court to expedite disposal of the case against the applicant preferably within three months hereinafter.

8. Needless to state that the observations made above are tentative in nature and may not influence case of either of the party at trial.

JUDGE

JUDGE