

**IN THE HIGH COURT OF SINDH, KARACHI**  
**Crl. Bail Application No.217 of 2020.**

APPLICANTS : Muhammad Yaseen son of Muhammad  
Yaqoob  
through Mr. Naheed Afzal, Advocate.

RESPONDENT : The State,  
through Mr. Faheem Hussain  
Panhawar, D.P.G.

Hearing on : 15.04.2020.

Decided on : 15.04.2020.

**ORDER**

**ABDUL MOBEEN LAKHO, J.-** ., Applicant / accused Muhammad Yaseen son of Muhammad Yaqoob seeks post arrest bail in a case bearing crime No. 65/2020 under Section 324/34, P.S, Sukkan, District Malir, Karachi. The bail plea of the applicant / accused was denied by the learned court of Additional Sessions Judge-V Malir, Karachi vide order dated 12.02.2020

2. Briefly stated, the facts of the prosecution case are that complaint Nazeer Ahmed Lashari lodged FIR stating therein that he is serving in Sindh Police as ASI and now-a-days he is dismissed from his service. On 11.01.2020 complainant on his 125 motorcycle was going to Juma Himati Goth to Hakeem for getting medicines. At about 1215 hours when he reached at Service road near Kaizan Pharmacy company Mills Area, Bhains Colony, he saw three persons on two motorcycles present there, out of them on motorcyclist and one pedestrian stopped him, pedestrian persons took out his 9MM pistol and pointed to him, complainant unboarded from his motorcycle and captured the said person, who was duly armed with pistol and felled down on earth. The motorcyclist persons rescued his companion and caught hold the complainant, during such scuffling accused, who was holding pistol fired upon the complainant by putting the pistol on his

back with intention to commit his murder. Resultantly, he sustained firearm injury and accused persons fled away. After scuffling complainant secured one colored copy of CNIC of Muhammad Yaseen (present applicant) and ownership documents of motorcycle bearing registration No.KFW-0334 on the spot. Thereafter, complainant went to Kissan Hospital for getting first aid, hence, such FIR was lodged at police station.

3. Mr. Naheed Afzal, the learned counsel for the applicant contended that applicant/accused is innocent and has been falsely implicated in this case; that there is an inordinate delay of about 14 days in lodging of the FIR without any explanation; that there is no specific role assigned to the applicant; that the alleged incident is day light but no any independent witness of locality supported the complainant's version; that nothing was recovered from the accused in connection of alleged offence; that no blood stained recovered from the place of incident; that no any witness from Kisan Hospital in respect of supporting the prosecution case; that no any empty was recovered from the place of wardat, case of accused need further inquiry; that there was no identification test of accused according with the law; that the case of accused does not fall within the meaning of section 324 PPC; that accused are ready to furnish solvent surety and the case requires further inquiry.

4. Mr. Faheem Hussain Panhawar, learned Deputy Prosecutor General opposed this Cr. bail application and prayed that this Cr. Bail Application may be dismissed.

5. I have heard the learned counsel for the parties at length and perused the record.

6. The incident took place on 11.01.2020 at about 1215 hours and the complainant lodged an FIR on 25.01.2020 at about 1830 hours with delay of 14 days, the delay is not explained that too when the police station is very closed to the

place of incident. Delay in lodging of FIR provides sufficient time for deliberation and consultation, the delay in such criminal cases is considered to be fatal to the case of the prosecution, which makes the case of the applicant one of further inquiry. Furthermore, admittedly, when the alleged incident took place the complainant, as stated in FIR, has found one colored copy of CNIC of Muhammad Yaseen (present applicant) as well as ownership documents of motorcycle bearing registration No.KFW-0334 at the spot, now questions arises that if the complainant was in possession of above documents, which includes coloured copy of CNIC and the police also visited him for recording of his statement, then why he remained silent and did not disclose the name of present applicant/accused to police and delayed the FIR for about 14 days, even after holding the coloured copy for 14 days no role could be assigned to the present accused in commission of the crime, which makes the case one of the further inquiries. It is settled law that every accused is presumed to be blue eyed boy of law until and unless he is found to be guilty of charge after recording of evidence, and law cannot be stretched upon in favour of prosecution particularly at bail stage.

7. In view of the foregoing, learned counsel for the applicant has made out a case of further enquiry within the meaning of sub-section 2 of section 497. Therefore, applicant/accused is admitted to bail in the sum of Rs.200,000/- and P.R. Bond in the like amount to the satisfaction of Nazir of this Court.

8. The observations made hereinabove are tentative in nature and shall not prejudice the case of either party during trial. However, the learned trial Court may proceed against the applicant if he will be found misusing the concession of bail.

9. These are the reasons of my short order dated 15.04.2020.

10. This Criminal Bail Application stands disposed of in the same terms.

JUDGE

Jamil Ahmed / PA