

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
Cr. Bail Application No.634 of 2020

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DATE            ORDER WITH SIGNATURE(S) OF JUDGE(S)  
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For hearing of bail application

Zahid                            ..Vs...                            The State

**11.06.2020**

Mr. Muhammad Javed, Tanoli, advocate for the applicant.

Ms. Rahat Ahsan, Addl.P.G. Sindh.

Ms. Zainab Hamrani, DDPP East.

Mr. Izhar-ul-Haque, advocate for Complainant.

SIP Ali Gohar, I.O present.

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1. Through instant bail application, applicant/accused seeks bail after arrest in **FIR No.673/2019**, under **Section 395/34 PPC** registered at police station Gulshan-e-Iqbal, Karachi. Earlier the applicant/accused approached the 8<sup>th</sup> Addl. Sessions Judge, East Krachi for post arrest bail, which was declined vide order dated **18.04.2020**. Thereafter, the applicant approached this Court for grant of post arrest bail.

2. I have heard learned counsel for the applicant and perused the record.

3. On **04.6.2020** after hearing learned counsel I inquired from the prosecution about previous record of the accused/applicant, she has informed that there is no CRO mentioned in the challan, therefore, I have passed the following order and case was adjourned for today i.e.

**11.06.2020.**

“Learned Additional P.G says that she has no criminal record of the applicant/accused Zahid son of Ghulam Shabbir. After going through the challan she states that even in the challan the CRO of the applicant/accused has not been mentioned by the investigating officer. Such conduct on the part of investigating officer as well as D.D.P.P. who has approved the challan for presenting before the trial

Court amounts to contempt of this Court's order dated **03.06.2016** passed in **Cr. Appeal Nos.165 and 176 of 2006**. It may be mentioned here that ever since the said order is passed, in almost 90% cases CRO has been mentioned in the challans, however, the I.O of this case seems to have deliberately avoided to mention the criminal record of the applicant/ accused which amounts to favouring the accused party.

Adjourned to **11.06.2020** when the I.O of the case namely **SIP Ali Gohar** and **D.D.P.P, Ms. Zainab Hamrani** should be present in person. Office is directed to issue notice to them”.

In compliance of the above order Ms. Zainab Hamrani, D.D.P.P East has appeared and after going through the above order and consulting with the I.O present in Court she has informed that there is no previous record of any crime against the applicant. She concedes that in view of the order mentioned in the above quoted order even report/information of no previous criminal record should have been mentioned in the cahllan. It is, therefore, reiterated that in future, even in case of “no previous criminal record” it should also be mentioned by all Investigating Officers and all DDPP or anyone which required to finalize/approve challan they should make sure that such information is incorporated in challan. Therefore, as far as present applicant Zahid son of Ghulam Shabir is concerned two cases were registered against him on the same day, one under the instant FIR **No.673/2019** under Section **395/34 PPC** and other as FIR **No.675/2019** under **Section 23(i)(a) SAA, 2013**.

4. This being a case under Section 395/34 PPC on the first date of hearing of the bail application on **06.5.2020** notices were issued to the complainant. **Mr. Izhar-ul-Haque, advocate** has filed his power on behalf of complainant in Court on **18.5.2020** and the case was adjourned in his presence for a fixed date i.e. **04.6.2020** when the above referred order

was passed. However, he was not present on **04.6.2020** and today at the very outset he has given an impression that the complainant has never been put on notice, however, learned Prosecutor has pointed out that his name is appearing in the cause list of today and his name has also appeared in the cause list of **04.6.2020**. After this misstatement instead of arguing case on merit on behalf of Complainant he insisted that not two but three cases are pending against the applicant/accused. However when his statement was contradicted by DDPP and I.O he has nothing to say and yet he tried to repeatedly made misstatement and he interpreted the hearing of bail application. When I was dictating the order, he left the Court room. He has not assisted the Court on behalf of the Complainant nor he appeared on 04.6.2020 after filing of power on 18.5.2020. Today he has left the Court during the proceedings. Therefore, it is ordered that copy of this order must be sent to the complainant through I.O who should served it to the complainant and report compliance to the Court Associate within three days.

5. Be that as it may, on merit learned counsel learned counsel for the applicant contended that applicant/accused is innocent and has falsely been implicated in this case with malafide intention and nothing has been recovered from the possession of the applicant/accused and the alleged recovery of unlicensed pistol has been foisted upon the applicant by the police officials. The applicant in the connected FIR No.675/2019 under **Section 23(i)(a) SAA, 2013** has already been granted bail by the Court of VIIIth Assistant Session Judge, Karachi East on **18.3.2020**. He has also contended that no mushirnama of arrest and recovery was prepared on the spot by the police as it is not mentioned in the FIR, there is only one

mushirnama of the two FIRs in which prosecution has not included any private person. It is further contended that names and description of family members of the complainant is not mentioned in the FIR, which also creates doubt in the prosecution story and entitles the applicant/accused for grant of bail.

6. The counsel for the prosecution has opposed bail application, however, she concedes that bail already granted in FIR No.675/2019 on **18.3.2020** has not been challenged by the prosecution.

7. In view of the above, the applicant / accused is admitted to bail subject to furnishing solvent surety in the sum of **Rs.1,00,000/-** and P.R bond in the like amount to the satisfaction of trial Court.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant/accused on merits. As ordered in para-4 above copy of this order may be sent to the Complainant through I.O.

SM

**JUDGE**