

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.
Crl. Bail Application No.S-729 of 2020.

DATE	ORDER WITH SIGNATURE OF JUDGE
-------------	--------------------------------------

For orders on office objection.
For hearing of main case.

17.08.2020.

Mr. Abdul Sattar Sarki, advocate for the applicant.
Mr. Nazar Muhammad Memon, Addl. P.G.

=====

RASHIDA ASAD, J- By means of this application, applicant/accused Jalal alias Babu s/o Ghulam Rasool, seeks his admission on post-arrest bail in Crime No.39/2020 for offence under section 25 of Sindh Arms Act, 2013, registered at P.S, Moya, District Tando Muhammad Khan, after rejection of his bail plea by the learned Sessions Judge, Tando Muhammad Khan vide order dated 17.07.2020.

2. Precisely, prosecution case is that on 05.07.2020 complainant ASI Ghulam Rasool Hajano apprehended the applicant/accused in Crime No. 36/2020 under sections 324, 114, 147,148, 149, 337-H(ii), 504, PPC and during interrogation, he secured a Repeater with five live cartridges alongwith magazine without number and license in working condition. The complainant prepared such mashirnama of his arrest and recovery and lodged such FIR.

3. It is, inter alia, contended by learned counsel for the applicant that applicant is innocent and has been falsely implicated in this case by the police due to political rivalry; that case property has been foisted upon the applicant with ulterior motives and malafide; that challan has already been submitted before the competent court of law and he is no more required for further investigation; that applicant/accused is in custody since his arrest and there is no progress in the trial. He has submitted that applicant has been granted bail in the main case by learned Sessions Judge, Tando Muhammad Khan vide order dated 17.07.2020. Lastly, he argued that maximum punishment provided in the Statute for the alleged offence may not be awarded to the applicant in the circumstances of the case. In support of his contentions, he relied on the case of HABIB alias GHAFFAR ABBA

v. THE STATE (2016 P.Cr.L.J. 683) and YAKOOB alias LALA v. THE STATE (2016 P.Cr.L.J. 1658).

4. Conversely, learned Addl. P.G opposed the grant of bail to the applicant.

5. I have considered the submissions of learned counsel for the respective parties and have gone through material placed on record.

6. Admittedly, the applicant was arrested in the main case and during interrogation alleged recovery was made from him. The applicant has been granted bail in main case by the learned trial court and this is an offshoot case; investigation is complete; accused is no more required for further investigation and there is no question of tampering with the evidence; applicant is in custody since his arrest without any progress. Liberty of a person cannot be curtailed without legal justification. No other case of like nature is pending against applicant. Needless to mention that the court while hearing bail is not to keep in view the maximum sentence provided by the Statute but the one which is likely to be entailed in the facts and circumstances of the case. In this respect, reliance is placed on the case of JAMALUDDIN v. STATE (2012 SCMR 573), therefore, the case of present applicant requires further inquiry.

6. In view of the above facts and circumstances, I am of the opinion that the applicant has made out a case for grant of bail. Accordingly, instant bail application is allowed and applicant is admitted to post arrest bail, subject to his furnishing solvent surety in the sum of Rs.30,000/-[Rupees thirty thousand] and PR bond in the like amount, to the satisfaction of learned trial Court by my short order even number dated and these are the reasons for the same.

7. Needless to mention here that whatever stated herein above is tentative in nature and will not influence on the trial Court at the time of trial.

g

JUDGE.