

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Application No. 740 of 2020

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

Heard on : 24.08.2020
Decided on : 24.08.2020
For Applicant : Syed Mudasder Hussain Zaidi, Advocate.
For State : Mr. Sagheer Ahmed Abbasi, A.P.G
For complainant : Mr. Waqas Ahmed Khan, Advocate.

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Kausar Sultana Hussain, J:-On dismissal of Post Arrest Bail Applications No.678 of 2020 and 448 of 2020, by the trial Court, vide orders dated 14.5.2020 and 6.4.2020, the applicant / accused Muhammad Javed Ali Khan filed instant Bail Application under Section 497 Cr.P.C, for obtaining Post Arrest Bail order in case, FIR No.94/2020, for offence punishable under Sections 322, 119, 337-H, 427, 109/34 PPC registered at P.S. Rizvia Society, Karachi.

2. Brief facts stated in the F.I.R are that with reference to Report No.11 at 1225 hours received from Liaquat Bais informed that one Residential Building located within the area of 400 quarters Gulbahar had been collapsed upon which Inspector Ejaz Memon along with subordinate staff in Govt. Mobile Rizvia Baktar Band SPE-049 rushed at the spot, while SIP Duty Officer Muhammad Yousuf sent to Abbasi Shaheed Hospital. Inspector reached at the spot found that the subject plot No.95/1 located at that area mentioned above belongs to one Javed, who himself done construction work over there

and build ground plus four floors building which had been collapsed and fallen on the nearby three buildings; mohalla people informed on inquiry that so many persons had been buried in the rubble, out of them some injured persons were got rescued and sent to hospital through ambulances. The Complainant Inspector along with subordinate staff and other persons rescued the injured people and at 1605 hours, SIP Muhammad Yousuf informed on his Cell that one Mst. Hina Gohar w/o Abdul, Haque Ghor, Hira d/o Abdul Rasheed and Ghulam Mustafa S/o Ata Muhammad had expired during treatment while, other injured persons were being provided medical treatment. Hence this F.I.R No.94/2020 under Sections 322/119/337-H(i)/427/109/34 P.P.C was lodged.

3. I have heard the learned counsel for the applicant/accused and learned A.P.G with the assistance of the learned counsel for the complainant.

4. After giving due consideration to the arguments delivered by the learned counsel for the applicant / accused and learned A.P.G. with the assistance of the learned counsel for the complainant and perusal of the record, it reveals that absconder co-accused (wife of the applicant/accused) is the owner of the collapsed building while the applicant / accused being contractor himself constructed that building, wherein 27 persons had died and several persons got injuries while valuable belongings of the residents of that building including vehicles parked outside under the said building and three more adjacent buildings were damaged and collapsed. It further reveals

from the record that the said building (ground + 7 floor) was constructed without any approved plan of the concerned authority i.e. SBCA in collaboration of its some officials and Applicant / Accused. The learned counsel for the applicant / accused submits in his arguments that the building had been completed in the year 1995 on the contrary, the documents produced by the learned counsel for the applicant / accused along with bail application do not support such plea as some documents available on file i.e. receipts of payments had been issued by the Applicant / Accused himself in the month of September, 2013 to the allottees of the flats of that building under his own signatures and seal as Project Director of Junaid Builder. The P.Ws have implicated the applicant / accused while recording their 161 Cr.P.C statements. Today the learned counsel for the Applicant / Accused along with his statement has submitted eye examination report of the Applicant / Accused issued by the Eye Unit-II of Ruth K.M PFAU Civil Hospital Karachi showing therein that the Applicant / Accused is patient of loss of vision in both eyes for 20 years but the receipts produced by the learned counsel for the Applicant / Accused available at Page 43 do show that in the year 2013, he was working as Project Director of Junaid Builders and issued such receipts under his own signatures and seal as discussed supra. Suffice is to say that bail cannot be claimed as a right in heinous crimes especially those fall within the prohibitory clause of Section 497 Cr.PC. Every case has its own peculiar background and consequent standing for grant of bail based on available facts and circumstances which led to commission of such crime, the Court has to weigh them with utmost care and caution

while passing order. In the instant case applicant / accused failed to advance cogent reasons and rationale, which could warrant grant of concession of bail as elucidated by this Court in forgoing discussion.

5. The observations recorded above are tentative in nature, therefore, trial Court shall not be influenced with them in any manner whatsoever.

6. The above are the reasons for rejection of bail application of the applicant/accused passed by this Court on 24.8.2020.

J U D G E

Faheem/PA