

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Amjad Ali Sahito

Criminal Bail Application No.1118 of 2020

Applicants : Mansab Ali S/o Namdar
Through Ch. Muhammad Rasheed
Gujjar, Advocate

Complainant : Shakeel Ilyas S/o Muhammad Ilyas
Through Mr. Zahid Hussain Soomro,
Advocate

Respondent : The State
Through Mr. Talib Ali Memon,
Assistant Prosecutor General, Sindh

Date of hearing : 10.09.2020

Date of order : 10.09.2020

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.303/2020 registered under Sections 381/109/34 PPC at PS Gizri, Karachi, after his bail plea has been declined by Addl. Sessions Judge-VI, Karachi South vide order dated 16.07.2020.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicant/accused has mainly contended that name of the applicant/accused is not appearing in the FIR only on the instigation; he has been booked in this case; that no robbed article is recovered from his possession. He prays for confirmation of bail to the applicant/accused.

4. On the other hand, learned counsel for the complainant as well as learned APG have opposed for confirmation of bail on the ground that on the instigation of present applicant/accused, main accused has committed the offence. They have further contended that sufficient material is available on record to connect with the applicant/accused with the commission of offence.

5. I have heard the learned counsel for the parties and have gone through the material available on record. Admittedly, the name of the applicant/accused does not transpire in the FIR. Only on the statement of main accused, applicant/accused has been booked in the commission of offence; however, no evidence is available on record to believe that he has committed the alleged offence. Further, learned counsel for the applicant has pleaded that the complainant malafidely and with ulterior motive has involved the applicant/accused in this case, otherwise he is innocent and no robbed article is recovered from the house or possession of the applicant/accused even when the police conducted the raid.

6. At bail stage, only a tentative assessment is to be made and deeper appreciation is not permissible. Prima facie, learned counsel for the applicant/accused has succeeded to bring a case of applicant/accused for further inquiry as envisaged under subsection (2) of section 497, Cr.P.C. Consequently, the bail application is **allowed** and the interim pre-arrest bail granted by this Court to the applicant/accused vide order dated 27.07.2020 is hereby **confirmed**. However, applicant/accused is directed to attend the trial.

7. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicants on merits.

JUDGE