

IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Appln. No. 389 of 2017

Applicant/accused : Atif Naseem, through Mr. Muhammad Akbar Khan & Mr. Sagheer Ahmed, Advocates.

Respondent : The State, through Mr. Muntazir Mehdi, APG.

Date of hearing : 17.05.2017

Date of Order :

ORDER

YOUSUF ALI SAYEED, J. Following the dismissal of his initial bail application before the VIth Additional District and Sessions Judge, Karachi (South), the Applicants have invoked the jurisdiction of this Court in terms of this subsequent Application under Section 498 Cr. P.C., whereby he seeks pre-arrest bail in relation to alleged offences under S. 324/354/506-B/34 PPC, which is the subject of FIR No.33/2017 registered on 12.02.2017 at P.S. Tipu Sultan, District South, Karachi (the "**FIR**").

2. Briefly stated, the allegation against the Applicants, as per the FIR, is that the Applicants perpetrated an armed attack on the Complainant and her husband on 11.02.2017 at 0922 hours when they were seated in their car at K.A.E.C.H.S, near Educator School, Gandhi Gali. It is alleged that shots were fired, due to which, one bullet lodged in the car seat between the legs of the Complainant's husband and another shot hit the Complainant on her arm. It is said that the attack was witnessed by bystanders as many persons were present there at the time of incident.

3. The Applicant was admitted to ad-interim pre-arrest bail on 27.03.2017, and in support of his plea for confirmation thereof learned Counsel for the Applicants contended that there is a 15-hour delay in lodging the FIR. He further stated that no empties had been recovered from the place of incident and there is no FSL report. He also contended that the version of events narrated in the FIR is implausible as a bullet could not have hit the seat of the car directly without penetrating some part of the car of itself, of which there is no mention. HE submitted that the Applicants had been falsely implicated by the Complainant at the behest and instigation of her husband as he had a personal grudge against the Applicants. It was explained that the Applicants were former employees of the Complainant's husband and had severed their employment ties with him despite him wanting them to continue to work for him. He submitted that on the basis of these grounds, the ad-interim bail granted earlier ought to be confirmed.

4. The learned APG strongly opposed the confirmation of bail and controverted these submissions. He pointed out that the Applicants had been nominated in the FIR with assigned roles, and submitted with reference to the Final Challan that contrary to the assertions of learned counsel for the Applicants, crime empties had been recovered from the spot, and the FSL Report, medico-legal report and statements of independent witnesses were consistent with what was stated in the FIR. He submitted that the bullet striking the car seat directly was unremarkable as a shot fired by someone standing next to a car would have a downward trajectory. He also submitted that the gap between the time of incident and time of registration of the FIR was fully explained as the Complainant was first taken to the hospital in order for her injuries to be attended to and then came forward for the purpose of reporting the incident. He submitted that the Applicant was not entitled for confirmation of bail and contended that ad-interim bail granted to the Applicant earlier may be recalled.

5. Having examined the matter and considered the arguments advanced, there appears to be sufficient material to prima facie connect the Applicants to the incident underpinning the FIR, the occurrence of which is supported by the FSL Report, medico-legal report and statements of independent witnesses. The bare allegation of false implication and mala fides has not been supported by any compelling argument. As such, I am of the opinion that no case for grant of bail presently stands made out. As such, I am not inclined to confirm the ad-interim pre-arrest bail granted earlier to the Applicant, which hereby stands recalled accordingly.

6. The observations made above are tentative in nature and should not to be read so as to influence the trial court in its determination of the main case in any manner whatsoever.

JUDGE