

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.1232 of 2021

Date

Order with signature of Judge

Muhammad Feroze Vs. The State

Mr. Gul Hassan, Advocate for the Applicant

Ms. Rubina Qadir, Deputy Prosecutor General, Sindh

Date of hearing : 24th August, 2021

Date of Order : 24th August, 2021

ORDER

Muhammad Saleem Jessar, J:- Through this bail application, Applicant Muhammad Feroze seeks his release on post arrest bail in Crime No.343/2021 of P.S Steel Town, Karachi, under Section 6/9-C CNS Act. The applicant preferred his bail plea before the first forum, which was turned down by means of order dated 16.06.2021; hence, he has approached to this Court through this Application.

Since the facts of the prosecution case are already mentioned in the FIR, which is annexed with Court file, therefore, there is no need to reproduce the same.

Learned counsel for the applicant submitted that applicant/accused is innocent and falsely implicated in this case by the police; that the applicant along with his sister-in-law, his wife and another Muhammad Feroz were taken away from their house on 22.05.2021 at about 3.00 a.m by the police officials of P.S Shah Latif Town, Karachi, for which her nephew filed Criminal Misc. Application vide its No.151/2021, under Section 491 Cr.P.C, before Sessions Judge Malir, Karachi on which application, Sessions Judge, appointed Raid Commissioner to 4th Judicial Magistrate Malir. He conducted raid at P.S Shah Latif Town but the same was failed and detainees were unfound; that the applicant/accused and his in-laws have an old enmity with police of P.S Malir City. His wife and sister in law and her son were also

illegally detained by the police of P.S Shah Latif. Learned counsel further submitted that sister-in-law of the applicant having old enmity with police and her son was illegally detained by the police of District Malir in the year 2017 and she was being continuously harassed by the police for which she had filed C.P No.D-5243 / 2017 and C.P No.D-5632/2017. Next submitted that applicant along with his sister-in-law and her son Muhammad Feroz / co-accused were picked from their houses by Shah Latif police. The raid was conducted by raid commissioner and Shah Latif P.S become powerless to book present applicant in any case rather they had transfer the applicant under illegal detention to the P.S Steel Town where he has been implicated in this false criminal case by foisting alleged contraband upon him. Next adds no private witness has been associated despite the fact place of incident is thickly populated area. He, therefore, contended that applicant may be granted bail.

On the other hand, learned Addl. P.G, Sindh appearing for the State, opposed the bail application on the ground that huge quantity of charas was recovered from possession of the accused; besides, police witnesses are competent as DWs, therefore, no case for bail is made out; hence, she prayed for dismissal of the bail application. She; however, could not controvert the fact that applicant along with three others were taken away by the police from their house in odd hours of the night and that Criminal Misc. Application bearing No.151/2021 under Section 491 Cr.P.C was also filed by one his nephew namely Fayyaz.

Heard arguments and perused record. Admittedly, the applicant along with his mother Mst. Amna as well as two others namely Mst. Asma and Pero were taken away by the police of P.S Shah Latif Town from their house on 22.05.2021 at about 03.00 a.m of the night, therefore, on following morning his cousin Fayyaz filed Criminal Misc. Application No.151/2021 before the Court of Sessions Judge, Malir Karachi against SSP Malir and SHO, P.S Shah Latif Town, Karachi. Consequently, Civil Judge / Judicial Magistrate-IV namely Gulraiz Memon, was directed to conduct raid upon police station on 22.05.2021 at about 1445 hours. During surprise visit made by the Magistrate concerned, none of the detainees were found, therefore, learned Magistrate submitted his report dated 24.05.2021 before the Court of Sessions; consequently, Criminal Misc. Application No.151/2021 filed by

Fayyaz Hussain was disposed of as having become infructuous. However, the applicant was implicated in this case on 25.5.2021 vide FIR No.353/25021. It is admitted position of the record that mother of applicant namely Mst. Amna had filed C.P No.S-243/2017 against SSP Malir and police personnels of P.S Malir, Karachi thereby shown high handedness of the police which shows that police is inimical towards accused. Mere pendency of the number of cases against an individual is no ground for dismissal of his bail application, therefore, I am of the opinion that malafide on the part of police has been established for which documentary evidence is available on record; however, the prosecution has submitted no justification for keeping the applicant under wrongful confinement right from 22.05.2021 to 25.5.2021 and later he was shown arrested in this case. Such malice on the part of prosecution is sufficient to hold that case against applicant requires further inquiry within the meaning of subsection 2 to section 497 Cr.P.C. Accordingly, instant Criminal Bail Application was allowed by a short order dated 24.08.2021. Consequently, Applicant/accused **Muhammad Feroze son of Ameer Bux Lashari** was directed to be released on bail subject to furnishing his solvent surety in the sum of Rs.100,000/- (Rupees One Lac only) and PR Bond in the like amount to the satisfaction of learned trial Court.

It need not to iterate that the observation(s) made hereinabove is/are tentative in nature and shall not prejudice the case of either party during trial. However, the learned trial Court may proceed against the Applicant, if he will be found misusing the concession of bail.

Above are the reasons for the short order dated 24.08.2021.

JUDGE