

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.1940 of 2020

Date *Order with signature of Judge*

For hearing of Bail Application.

13.01.2021

Mr. Imtiaz Ali, Advocate along with Applicant (on bail).
Syed Meeral Shah Bukhari, Addl. Prosecutor General, Sindh.

ORDER

Muhammad Saleem Jessar, J:- Through this application, applicant Sarmad Siddiqui seeks his admission on pre-arrest bail in Crime No.499/2020 of Police Station Ferozabad, Karachi, under Section 406/420/34 PPC. The bail plea preferred by him before first forum was declined by means of order dated 10.12.2020, hence this bail application.

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

Learned counsel submits that FIR is delayed for about 02 months and the offence consists upon documents which are in custody of the prosecution, therefore, tampering of prosecution evidence, does not arise. He next submits that case has been challaned by the police, which is now pending for trial before the Court of Civil Judge/Judicial Magistrate-XXV, Karachi (East) where accused has surrendered and as joined the trial proceedings. He, therefore, submits that he is no more required by the police for investigation or interrogation. Hence, he prays for confirmation of the bail.

Learned Addl. P.G, Sindh, in view of the delay in lodgment of FIR as well as documentary evidence, does not oppose the bail application.

Heard arguments and perused record. Admittedly, FIR is delayed for about 02 months for which no plausible explanation has been furnished by the prosecution and delay in criminal cases has always been held by the superior Courts to be fatal for the prosecution. Entire evidence of the prosecution is based upon documents, which are in custody of the

prosecution itself, therefore, question of its tampering does not arise. It is well settled principle of law that every accused would be presumed to be blue eyed boy of the law until and unless he may be found guilty of the charge; however, after recording evidence of the parties, if prosecution may establish its charge against the applicant, then trial Court would be competent to pass judgment according to evidence. As far as, instant bail application is concerned, Sections applied in FIR, carries maximum punishment upto 7 years and thus does not exceed limits of prohibitory clause of Section 497 Cr.P.C. In my view, case against applicant requires further inquiry within the meaning of sub-section 2 to Section 497 Cr.P.C. Accordingly, instant Criminal Bail Application is hereby allowed; interim bail granted earlier to applicant Sarmad Siddiqui son of Shakil Siddiqui on 15.12.2020 is hereby confirmed on same terms and conditions.

Applicant present before the Court is directed to continue his appearance before the trial Court without negligence and in case he may misuse the concession or may temper with the prosecution's evidence then the trial Court is competent to take legal action against him as well to his surety in terms of Section 514 Cr.P.C. Trial Court is also hereby directed to make necessary arrangements for securing attendance of the prosecution witnesses and conclude the trial within shortest possible time under intimation to this Court through MIT-II.

Let copy of this Order be communicated to trial Court through learned Sessions Judge, concerned, over fax, for compliance.

JUDGE

Zulfiqar/P.A