

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.1881 of 2020

<i>Date</i>	<i>Order with signature of Judge</i>
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For hearing of Bail Application.

09.03.2021

Mr. Muhammad Yaqoob, Advocate for the Applicant.
Mr. Riasat Ali, D.P.P for the State.

ORDER

Muhammad Saleem Jessar, J:- Through this bail application, Applicant Imran Bashir seeks his release on post arrest bail in Crime No.202/2020 of P.S Sir Syed, Karachi, under Section 394/34 PPC. The applicant preferred his bail plea before the first forum, which was turned down by means of order dated 10.08.2020; 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 submits that applicant is not nominated in the FIR and he was shown arrested by the police on 09.05.2020 (annexure-A/7 available page-41 of the Court file). Next submits that after his arrest on 09.05.2020 his identification parade was conducted by the police at police station on 12.05.2020 in the morning time (annexure-D available at page-61 of the Court file) and on very same date, was produced before the Judicial Magistrate-XIII, Karachi (Central) whereby the PWs who have already identified him at the police station, picked him with specific role. He further submits that identification parade in view of delay caused by the police carries no weight. Next submits that nothing incriminating/robbed article was recovered from his possession except an alleged pistol from which he

has been acquitted of the charge by the trial Court vide judgment dated 01.03.2021 vide Sessions Case No.790/2020 (re-the State Versus Imran Bashir). Next submits that mere involvement of the applicant in other cases is no ground for withholding concession of bail. In support of his contention, he places reliance upon cases (i) *SHABBIR AHMED Versus THE STATE* (2011 SCMR 1142), (ii) *RASHID CHANDIO and another Versus The STATE* (2020 P.Cr.L.J Note 62), (iii) *MASHOOQ ALI LAGHARI Versus The STATE* (2020 P.Cr.L.J Note 181), (iv) *BABAR HUSSAIN Versus The STATE and another* (2020 SCMR 871), (v) *Zahid Versus The State and others* (SBLR 2020 Sindh 1524) and (vi) *SIKANDAR ALI Versus The STATE* (2020 P.Cr.L.J Note 191).

On the other hand, learned D.P.P appearing for the State opposes the bail application on the ground that per CRO he has been shown involved in many other cases and mere defect in the identification parade may not entitle him for bail. He; however, admits that he was arrested by the police on 09.05.2020 and on 12.05.2020 was subjected to identification parade by the police at police station and later was produced before Magistrate concerned; hence, such practice on the part of police was not warranted by law.

Heard arguments, record perused. As far as contention of learned Law Officer is that petitioner is involved in many other cases, would not disentitle him from the relief sought for as the learned Law Officer did not bring any evidence regarding conviction of the appellant in any of that cases. In case of Babar Hussain (Supra), Honourable Supreme Court of Pakistan has held in following words;_

“4. As far as the contention of learned Law Office that the petitioner is involved in six other criminal cases would not disentitle him from the relief sought for as learned Law Officer frankly conceded that petitioner has not been convicted in any case, hence, mere involvement in criminal cases could not be a ground to withhold the concession of bail in the given circumstances. Reliance in this regard is placed upon cases titled as “Moundar and others v. The State” (PLD 1990 SC 934) and “Muhammad Rafique v. The State” (1997 SCMR 412).”

Moreover, nothing incriminating has been shown to have been recovered from his possession except an alleged weapon and the charge of said weapon has also not been proved by the prosecution, consequently, he has been acquitted of same charge.

In view of above discussion particularly exercise carried out by the police by holding identification parade at police station and after delay of about 3 days of his arrest, applicant was subjected to identification test before the Magistrate where same PWs who had seen him at police station in so called identification parade, had picked him up in parade. The delay so occasioned by the police in discharging their lawful duties casts serious doubts on the veracity of prosecution evidence. At any rate, the above factors create reasonable suspicion which entitles the applicant to the concession of bail. In the circumstances, what has been discussed hereinabove, I feel that a case of further inquiry within meaning of sub-section 2 to section 497 Cr.P.C is made out. Consequently, instant bail application is hereby allowed. Applicant **Imran Bashir son of Muhammad Bashir Zafar**, shall be released on bail subject to furnishing his solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousands 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.

Learned trial Court is also hereby directed to conclude the trial within shortest possible time by examining all material witness, under intimation to this Court.

This Criminal Bail Application is disposed of in the terms indicated above.

JUDGE

Zulfiqar/P.A