ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. 2222 of 2021

Order with signature of Judge

For hearing of bail application

13th December 2021

Date

Mr. Aquib Rajper advocate for applicant/accused

Mr. Habib Ahmed Special Prosecutor ANF.

Salahuddin Panhwar, J.-This is third bail application filed by

applicant/accused before this Court. The first bail application bearing

No.01/2021 was dismissed on merits by this Court by order dated 25.01.2021,

the second bail application filed by the applicant/accused was disposed of as

not pressed by order dated 04.08.2021 with direction to the learned trial court

to examine mashir for production of builty within one month, whereafter, the

applicant/accused was allowed to file fresh bail application on the grounds

as may be available to him.

2. Counsel for the applicant/accused contended that compliance of the

directions issued by this Court vide order dated 04.08.2021, regarding

examination of mashir have not been made; that out of 11 witnesses only five

witnesses have been examined so far, hence fresh ground to move another

bail application has been made out. Learned counsel for the applicant has also

reiterated the arguments on merits as submitted by him earlier during

hearing of his first bail application.

- 3. On the other hand learned Special Prosecutor ANF has contended that first bail application of the applicant was dismissed on merits and second bail application was also disposed of with direction to the learned trial court however, no fresh ground has been urged by the counsel for the applicant/accused in the instant bail application, hence instant bail application merits dismissal.
- 4. Heard and perused the record.
- 5. With regard to the arguments of learned counsel for the applicant on merits, record reflects that all such arguments were dealt with by this Court while deciding first bail application of the applicant/accused. It is by now well settled that an accused can maintain a subsequent bail application, at post arrest stage, only on the strength of a fresh ground, accrued after dismissal of his first plea. In the case reported as The State through Advocate General N.W.F.P. vs. Zubair Ahmed and 4 others (PLD 1986 SC 173) the Honourable Supreme Court has held that second or the subsequent bail application to the same Court shall lie only on a fresh ground namely, a ground which did not exist at the time when the first application was made, however in the present case learned counsel for the applicant has failed to point out any fresh ground which was not available to the applicant at the time of filing of his first bail application. He nevertheless emphasized that directions given by this Court while disposing of second bail application of the applicant have not been complied with, as such, the applicant is entitled to bail on this ground alone. I am unable to subscribe to such submission of the learned counsel for the applicant. Non-compliance of the directions issued to the trial Court to examine mashir/witness within some specified time

cannot be considered as valid ground for grant of bail to an accused, being alien to the provisions of section 497, Cr.P.C. Reliance can be placed on the case reported as Nisar Ahmed vs. The State and others (PLD 2016 SC 11). Unless some fresh ground is shown by the accused for consideration of his request for grant of bail afresh, which is lacking in the instant case, the accused cannot be allowed to repeat such attempts.

- 6. For the foregoing reasons, the instant bail application is misconceived hence the same is **dismissed**.
- 7. The observations made hereinabove are tentative in nature and learned trial Court shall not be influenced in any manner, while deciding the case on merits. However, learned trial court shall decide the case expeditiously.

JUDGE