

IN THE HIGH COURT OF SINDH AT KARACHI
Criminal Bail Application No. 1963 of 2021

Applicant : Muhammad Zeeshan s/o. Muhammad Ayub Malik, through Mr. Rab Nawaz, advocate

Complainant : Mst. Fatima d/o Ghazanfar Iqbal, through Mr. Waseem Riaz Shaikh, advocate

Respondent : The State, through Mr. Faheem Hussain Panhwar, Deputy Prosecutor General, Sindh

Date of hearing : 27.01.2022

Date of order : 27.01.2022

ORDER

ZAFAR AHMED RAJPUT, J.- Applicants/accused Muhammad Zeeshan s/o. Muhammad Ayub Malik on being failed in getting relief of pre-arrest bail from the Court of Additional Sessions Judge-XI, Karachi-South in Cri. Bail Application No. 3524 of 2021, vide order dated 12.10.2021, through instant application seeks the same relief from this Court in Crime/F.I.R. No. 1486 of 2021, registered at Police Station Preedy, Karachi under section 382/34 r/w 384, 385, P.P.C. He was admitted on interim pre-arrest bail by this Court vide order, dated 18.10.2021, now the matter is fixed for confirmation of the same or otherwise.

2. Precisely, the case of the prosecution is that in the month of December, 2020 the applicant, in furtherance of common intention alongwith co-accused Muhammad Hussain Talha and one un-known woman, committed extortion by putting the complainant Mst. Fatima d/o Ghazanfar Iqbal in fear of making her pictures viral and thereby he dishonestly induced her to deliver to him Rs. 37,00,000/- and her 17 signed cheques, for which, the applicant and said co-accused were booked in the instant F.I.R.

3. Learned counsel for the applicant has mainly contended that the applicant is innocent and has falsely been implicated in the case by the complainant with mala fide intention and ulterior motives with the help of his father who is a

police officer; that the applicant is engaged in the business of sell and purchase of mobile phones under the name and style of "Al-Madina Communication", situated at shop No.34, Al-Nafeesa Electronic Market, Abdullah Haroon Road, Saddar, Karachi and the complainant, who is a banker, came in his contact in the month of February, 2020, when she first time visited his shop and purchased Note-10 Plus mobile phone, which she returned within 15 days and purchased an I-Phone and then she started visiting his shop alongwith her colleagues, friends and relative and in order to sell and purchase cell phones, she succeeded to build up trust; that the complainant having purchased numerous costly mobile phones and I-Pads from the applicant on installments against security cheques committed default in payment of installments as per agreed schedule; hence, the applicant presented her cheques for encashment but the same were dishonored with the bank endorsement "account closed" or "funds insufficient"; that finding no other option, the applicant approached to concerned police station for taking legal action against the complainant for dishonestly issuing cheques but the police officials on coming to know that she is daughter of a police officer, refused to lodged the F.I.R.; that since an amount of Rs.28,50,500/- is outstanding against the complainant, she lodged instant F.I.R. falsely against the applicant; that the instant F.I.R. is nothing but an unsuccessful attempt to blackmail the applicant to compel him to withdraw his claim of recovery and return the cheques to complainant; that there are no reasonable grounds for believing that the applicant is guilty of alleged offence; that the guilt of applicant is yet to be ascertained as at the very out set no evidence is available with the prosecution to connect the applicant with the commission of alleged offence; that the F.I.R. is motivated one and the applicant is a respectable person and in case he is arrested, he shall be harassed and humiliated by the police at the behest of the complainant; hence, he is entitled for the confirmation of interim bail.

4. On the other hand, learned counsel for the complainant and learned Deputy P.G. have maintained that the applicant extorted huge amount from complainant by putting her under fear of making her pictures viral on social media; that the investigation has been transferred to SIU, Karachi and it appears from the investigation so far made that the applicant has also blackmailed some other girls while using same tactics; that there is no mala fide on the part of complainant for lodging instant F.I.R.; that sufficient material is available with the prosecution to connect the applicant with commission of alleged offence; hence, the interim bail granted to applicant is liable to be recalled by dismissing the instant application.

5. Heard learned counsel for the parties and perused the material available on record including progress report, dated 27.01.2022, submitted by Inspector Muhammad Aslam Mughal of SIU/CIA, Karachi.

6. It appears from perusal of the record that the complainant, who serves in UBL, used to purchase mobile phones from the applicant in cash and on installments. She gave her iPhone-7 loaded with her and her family's pictures to applicant for repairing, who did not return the same to her and made purchasing of Rs.70,000/- from her account. Thereafter, the applicant put the complainant in fear of making her pictures viral and extorted Rs, 37,00,000/- from her and also received under duress 17 signed cheques from her. The applicant kept his blackmailing continued; he took the complainant forcibly in the flat of his servant Muhammad Hussain Talha and with the assistance of one woman he made more pictures of the complainant.

7. It further appears that after registration of the F.I.R., further statement of the complainant was recorded by the investigating officer and sections 384 and 385, P.P.C. were added. Subsequently, investigation was handed over to SIU/CIA. During investigation, the I.O. seized DVD MAXELL loaded with five

videos and two whatsApp messages. Meanwhile, the applicant after obtaining pre-arrest bail from this Court joined the investigation. During interrogation, the applicant claimed that he had sold out mobile phones to complainant valued of Rs.17,00,000/-. The I.O. issued him three notices under section 160, Cr.P.C. for submitting receipt and purchasing invoice of the said mobile phones but he did not produce the same. During investigation police arrested co-accused Muhammad Hussain Talha and recovered two mobile phones from him, out of them one was in the use of present applicant, the same was checked, and found containing objectionable pictures and videos of the complainant and applicant's whatsApp messages demanding money from the complainant by blackmailing her and asking her for arranging another girl for him.

8. From the tentative assessment of the evidence available with prosecution, it appears that, *prima facie*, sufficient material is available with the prosecution to connect the applicants with the commission of alleged offence. The counsel for accused has not been able to point out any special feature of the case entitling the applicant to grant of extra-ordinary concession of pre-arrest bail. Pre-requisites for such concession i.e. malice and ulterior motive, either on the part of complainant or the police are conspicuously missing in the case. Accordingly, instant application is dismissed. The interim bail granted to applicant, vide order dated 18.10.2021, stands recalled.

9. Above are the reasons of my short order dated 27.01.2022

JUDGE

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