

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Cr. Bail Application No.463 of 2021

Shafqat Ali
Versus
The State

Date	Order with signature of Judge
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Date of hearing: 26.04.2021

Mr. Nehal Hashmi for applicant.

Mr. Saleem Akhtar, Addl. P.G. for the State.

Mr. Kher Muhammad along with Mr. Sohail Baig Noor for complainant.

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Muhammad Shafi Siddiqui, J.- Through this application, applicant seeks bail in FIR No.1097 of 2020 registered under section 324, 109 & 34 PPC at police station Shah Latif Town, Karachi, which bail was declined by 5th Additional Sessions Judge Malir vide order dated 26.11.2020.

Brief facts of the case are that complainant lodged an FIR to the effect that on a call received from present applicant the complainant, who is stated to be business partner of present applicant, reached at the place of incident where a motorcycle with two unknown persons riding on it arrived and the person sitting on rear side put out a pistol and fired in the mouth of complainant. Complainant alleged that he can identify the accused on seeing.

During the course of investigation on the basis of statements of applicant and co-accused, the I/O found that there was a dispute between complainant and present applicant over a property. The I/O then arrested one Muhammad Faizan who named present applicant to be the one on whose directions the complainant was attacked. Hence on

the statement of Faizan and his alleged conversation with present applicant, the present applicant has been involved in this case.

Learned counsel for the appellant submitted that there is delay of four days in lodging of the FIR. The applicant has not been accused in the FIR. No role is assigned to the present applicant. Learned counsel submitted that the applicant is involved only on the basis of statement of co-accused. He further submitted that the applicant and complainant are known to each other as they are business partners and dealing in the property. Learned counsel submitted that the only thing that has come against the present applicant is that he called the complainant to be at the place of incident, which per learned counsel is a routine matter as they both are business partners but this could not lead to an inference that applicant is involved in the crime.

On the other hand learned counsel for complainant as well as learned Addl. Prosecutor General have opposed grant of the bail to the present applicant on the strength that the present applicant through fraud has grabbed a handsome amount from the complainant and then to avoid such payment, he has tried to get him killed. They further submitted that the delay in lodging FIR is very much explained and medical report supports the same. They further submitted that the CDR is a technical evidence which connect the present applicant with the co-accused who has admitted the crime and crime weapon has also been recovered from him. Hence in terms of Section 109 PPC the present applicant is not entitled to the concession of bail.

I have heard the learned counsel and perused material available on record.

There appears to be some business relations of the applicant with the complainant as disclosed in the FIR. The FIR is silent as far as accusation against the applicant is concerned. It is only a phone call of

the applicant allegedly received by the complainant that he went to the crime scene; the complainant never saw or witnessed the applicant. The two persons who appeared on motorcycle were identifiable by complainant. One of them was Muhammad Faizan who was meeting with the complainant as Kamran.

There was a dispute on purchase of a plot, as disclosed in the challan. The co-accused Muhammad Faizan admitted that he was meeting with the complainant disclosing his name as Kamran son of Muhammad Rafiq. The plot was purchased jointly by the applicant and the complainant and an amount of Rs.5 lacs was paid as advance. The property documents of plot in question were also obtained which were in the name of Kamran son of Muhammad Rafique. The charge sheet further disclosed that it was on the insistence of the applicant that co-accused Faizan disclosed his name as Kamran to the complainant.

Though the FIR is absolutely silent as far accusation against the applicant is concerned but the investigation reveals that it is a dispute of a plot in question primarily between Faizan who disclosed his name as Kamran, one of the co-accused and the two property dealers i.e. Shafqat Ali, the applicant and Iftikhar, the complainant.

The facts of the case are such that it cannot be ruled out that the applicant Shafqat Ali was made hostage and that is the reason that the Call Data Record shows his presence within the crime scene. Be that as it may, it appears to be a case of further inquiry as there is no direct accusation against the applicant in the FIR.

In view of above, the applicant was granted bail in the sum of Rs.100,000/- with P.R. Bond in the like amount to the satisfaction of the trial Court vide short order dated 26.04.2021 and these are reasons for the same.

Dated:

Judge