

IN THE HIGH COURT OF SINDH AT KARACHI

Before:

Mr. Justice Amjad Ali Sahito

Criminal Bail Application No.524 of 2021

Applicant : Raja Mushtaq Ahmed S/o Raja Jan Alam
Through Mr. Imtiaz H. Gondal,
Advocate

Respondent : The State
Through Mr. Saleem Akhtar,
Addl. Prosecutor General, Sindh a/w
ASI/I.O. Muhammad Aslam Rajput

Date of hearing : 14.07.2021

Date of order : 14.07.2021

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks pre-arrest bail in Crime No.75/2021 registered under Section 420, 468, 471 PPC at PS Mithadar, after his bail plea has been declined by 1st Additional Sessions Judge (Model Criminal Trial Court), Karachi South vide order 20.03.2021.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Learned counsel for the applicant/accused has mainly contended that applicant/accused is innocent and has falsely been implicated in this case; that in fact, the applicant/accused has not tampered anything with the birth certificate in the service book as the same is lying in the I.G. office. He has further contended that an application is available at Page-33 in which the applicant/accused has only requested for correction of his date of birth, otherwise he has no concern with the alleged offence nor he is a beneficiary. He lastly prays for confirmation of pre-arrest bail.

4. On the other hand, learned Addl. PG submits that if there was no correction in the date of birth then why the applicant/accused had moved the application for correction in the date of birth; that in fact, in the year 2014 when he came to know about the seniority list then he moved application in order to get benefit he has moved the application and the inquiry was conducted by the order of the Hon'ble Supreme Court of Pakistan.

5. I have heard the learned counsel for the parties and perused the material available on record. From perusal of record, it appears that an order was received by the complainant Sheikh Tahir from the superior office that the applicant/accused moved an application to the IG Sindh for correction of date of birth wherein he stated that his actual date of birth is 24.12.1966, as such, the same may be inserted in the seniority list and thereafter, he approached the Hon'ble Supreme Court of Pakistan wherein the Hon'ble Court ordered to conduct an enquiry from senior officers, where he found guilty. As such he committed the forgery. As far as contention of learned counsel for the applicant is concerned that the applicant/accused is not beneficiary then why he moved application for correction of his date of birth. Prima facie, he is a beneficiary and sufficient material is available on record to connect him with the alleged offence. No ill-will or enmity has been suggested against the I.O. of this case to believe that the applicant/accused has falsely been implicated in this case.

6. Further, the concession of pre-arrest bail cannot be allowed to an accused person unless the Court feels satisfied with the seriousness of the accused person's assertion regarding his intended arrest being actuated by *mala fide* on the part of the complainant party or the local police but not a word about this crucial aspect of the matter is found as no *mala fide* is made on the part of the complainant to believe that the applicant/accused has been implicated in this case falsely. In this context, the reliance is placed to the case of **'Rana Abdul Khaliq v. The STATE and others'** [2019

SCMR 1129]. In addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual course of law, arrest in cognizable cases; protection to the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*, it is not a substitute for post-arrest bail in every run of the mill criminal case as it seriously hampers the course of the investigation.

7. In view of the above, learned counsel for the applicant/accused has failed to make out a case for further inquiry as envisaged under subsection (2) of section 497, Cr.P.C. Consequently, the interim pre-arrest bail granted by this Court to the applicant/accused vide order dated 29.03.2021 is hereby recalled and the bail application is **dismissed**.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant on merits.

JUDGE

Kamran/PA