

IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Applications No. 96 & 159 of 2022

Applicant in : Nadir Sultan s/o Muhammad Sultan, through
Cr. Bail No. 96 of 2022 Mr. Liaquat Ali Awan, advocate

Applicant in : Shah Nawaz s/o Saleem, through
Cr. Bail No. 159 of 2022 Mr. Shaikh Zahid Mehmood, advocate

Respondent : The State, through Mr. Faheem Hussain Panhwar,
D.P.G.

Date of hearing : 05.04.2022
Date of order : 05.04.2022

ORDER

ZAFAR AHMED RAJPUT, J:- By this common order, I intend to dispose of above listed both criminal bail applications as the same have arisen out of same Crime/F.I.R. No. 501/2021 registered under sections 392, 397, 34, P.P.C. at P.S. Madina Colony, Karachi.

2. Applicant/accused Nadir Sultan s/o Muhammad Sultan, through criminal bail application No. 96 of 2022, seeks pre-arrest bail in aforementioned crime. His earlier application for grant of same relief bearing No. 6467 of 2021 was dismissed by the learned Additional Sessions Judge-I, Karachi-West, vide order dated 11.01.2022. He was admitted to interim pre-arrest bail by this Court in the instant Cr. Bail Application vide order, dated 19.01.2022, and now the same is fixed for confirmation of interim bail or otherwise. While the applicant/accused Shah Nawaz s/o Saleem, by means of criminal bail application No. 159 of 2022, seeks post-arrest bail in aforementioned crime. His earlier application for the grant of same relief bearing No. 49 of 2021 was dismissed by the said learned Additional Sessions Judge, vide order dated 12.01.2022.

3. Briefly stated, the facts of the case are that, on 15.11.2021 at 1215 hours, complainant Adnan s/o Nisar Ahmed lodged the aforesaid F.I.R. to the effect that, on the said date after receiving easy load payment from different shops he was going towards Pareshan Chowk and when, at about 1100 hours, he reached 19-D, near Peela School, Sector "C-3", two persons riding on a motorcycle stopped him and robbed cash of Rs. 1,80,000/00, purse containing Rs.20,000/-, copy of his CNIC and mobile phone from

him showing a pistol; however, due to commotion people gathered and succeeded to apprehend one of them, while the other made his escape good. Meanwhile, a police party of P.S. Madina Colony reached the spot. The apprehended accused disclosed his name as Shahroze s/o. Ramzan and the name of his companion, who succeed to make his escape good, as Shah Nawaz s/o. Saleem (*present applicant in Cr. Bail No. 159 of 2022*). From apprehended accused police recovered one 38 bore pistol loaded with two live bullets as well as robbed purse and mobile phone of the complainant. During interrogation apprehended accused disclosed that accused Nadir (*applicant in Cr. Bail No. 96 of 2022*) used to help them in committing the offence.

4. Heard, record perused.

5. It is an admitted position that the applicant Nadir Sultan has been implicated in this case on the basis of statement of arrested accused Shahroze, which is inadmissible under Article 38 of Qanun-e-Shahadat Order, 1984; as such, his involvement in commission of alleged offence requires further inquiry as envisaged under sub-section (2) of Section 497, Cr. P.C. It is also an admitted position that no identification test of the applicant Shah Nawaz has been conducted by the I.O. to identify, if he was the same accused, who allegedly committed robbery from the complainant and made his escape good. Hence, his guilt is yet to be established at the trial. Moreover, he is behind the bars since 22.11.2021 and police has already submitted challan; therefore, his custody is no more required by the police; hence, he cannot be kept behind bars for an indefinite period.

6. Accordingly, interim pre-arrest bail granted to applicant Nadir Sultan by this Court in Cr. Bail Application No. 96 of 2022, vide order dated 19.01.2022, is confirmed on the same terms and conditions, while applicant Shah Nawaz in Criminal Bail Application No. 159 of 2022 is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.100,000/- (*Rupees One Hundred Thousand Only*) and P.R. Bond for like amount to the satisfaction of the Nazir of this Court.

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

merits. In case applicant(s) misuses the concession of bail in any manner, it would be open for the trial Court to cancel his bail after issuing them the requisite notice.

Above are the reasons of my short order dated 05.04.2022

JUDGE

Athar Zai