

**IN THE HIGH COURT OF SINDH, AT KARACHI**

Cr. Bail Application No. 452 of 2022

Applicant : Muhammad Ali s/o Mushtaq, through  
Mr. Muhammad Sahib Khan Buner, advocate.

Respondent : The State, through Ms. Rahat Ehsan,  
Additional Prosecutor General.

Complainant : Hamza Abbasi s/o Mukhtiar Ahmed, through  
Mr. Tariq Hussain, advocate  
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Date of hearing : 24.05.2022  
Date of order : 24.05.2022  
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**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Through instant Criminal Bail Application, applicant/accused Muhammad Ali s/o Mushtaq seeks pre-arrest bail in Crime No. 565/2021, registered at P.S. Defence, Karachi under section 342, 506-B, 354, 355, 34, P.P.C. Earlier, his two Bail Before Arrest Applications bearing No. 2473/2021 and 439/2022 were dismissed by the learned Additional Sessions Judge-II, Karachi-South, vide orders dated 19.07.2021 & 26.02.2022. He was admitted to interim bail by this Court vide order, dated 09.03.2022, now the matter is fixed for the confirmation of the same or otherwise.

2. Brief facts of the case, as disclosed in the F.I.R. lodged on 06.07.2021 by the complainant Hamza Abbasi s/o Mukhtar Ahmed are that, on 04-07-2021, he after getting his motorbike repaired came at Master Juice, situated in Phase-II DHA Extension, Karachi where two persons, namely Ali and Aijaz arrived. Aijaz pointed out pistol upon the complainant and under threats brought him in Bungalow No. J-55, situated at Jami Staff Lane and kept him in Room No. 806, where a girl was already present and Kashif s/o Ghulam Muhammad was available on the counter, whereafter they removed the clothes of the complainant and said girl and forcibly recorded their video on their mobile phones. They asked the complainant that his father has fake documents of his factory while they have original documents.

3. Learned counsel for the applicant contends that applicant is innocent and has falsely been implicated in this case by the complainant; that there is inordinate delay 02 days in lodgment of F.I.R. without any plausible explanation; as such, deliberation and consultation cannot be ruled out; that there is some dispute between the parties as mentioned by the complainant in the F.I.R. that the original documents of his father's factory are in the possession of the accused persons; that the alleged girl has not been cited in the challan as accused; that co-accused Aijaz Ahmed, Muhammad Haris, Nabeel and Kashif have already been granted bail; hence rule of consistency also attracts to the case of applicant for the grants of bail; that all the sections incorporated in the F.I.R. as well as in the challan are bailable, except section 506-B, P.P. C., which is not applicable on present applicant; as such, the applicant is entitled for concession of bail.

4. Conversely, learned counsel for the complainant as well as learned Addl. Prosecutor General oppose this application on the ground that the applicant is involved in a heinous crime; that applicant has failed to prove any mala fide on the part of the complainant to implicate him falsely; that the applicant has misused the concession of pre-arrest bail granted to him by the lower Court; hence, he is not entitled to the concession of bail. In support of their contentions, they have relied upon the case of (i) *Kamran Attaullah and another v. The State* (2021 SCMR 449) (ii) *Mukhtar Ahmed v. The State and others* (2016 S C M R 2066) and (iii) *Rana Muhammad Arshad v. Muhammad Rafique and another* (PLD 2009 S.C. 427).

5. Heard, record perused.

6. So far contentions of learned counsel for the complainant with regards to earlier misuse of concession of bail is concerned, it appears that the applicant previously preferred Bail Before Arrest Application bearing No. 2473/2021, wherein he was admitted to interim bail by the learned Additional Sessions Judge-II, Karachi-South, vide order, dated 07.07.2021, subsequently, on the next

date of hearing i.e. 19.07.2021 he failed to make his appearance before the said Court, hence, interim pre-arrest bail granted to him was recalled. Record shows that the brother of the applicant, namely, Kashif Ali filed H.C.P No. 333 of 2021, under section 491, Cr.P.C. alleging therein that the applicant was forcibly taken away by police from the house on 18.07.2021 (*one day before the date of hearing of aforesaid bail application*). Subsequently, the applicant filed second Bail Before Arrest Application bearing No. 439/2022, which was dismissed by the said Court, vide order dated 26.02.2022, on technical ground.

7. It appears that offences under section 342, 354 and 355, P.P.C. are bailable under the Schedule of Offences, while issuance of criminal intimidation by showing pistol has specifically been attributed to co-accused Aijaz. It goes without saying that in the case of bailable offence, the accused has the indefeasible right to the grant of bail. The applicant after being granted interim pre-arrest bail by this Court is attending the trial Court regularly and there is no complaint of misusing the concession of interim bail. It is also an admitted position that the co-accused Aijaz Ahmed, Muhammad Haris, Nabeel and Kashif have already been admitted to bail by the Additional Sessions Judge-II, Karachi-South. The case-law cited by the learned counsel for the complainant on being distinguishable facts does not advance the case of the complainant for the rejection of applicant's bail; hence, the interim bail granted to applicant is confirmed on the same terms and conditions.

8. Needless to mention here that in case the applicant misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving him requisite notice, as per rule.

Cr. Bail Application stands disposed of.