ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI Crl. Bail Appln. No.317 of 2022

011. Ban rippin. 110.017 of 2022

Date

Order with Signature(s) of Judge(s)

For hearing of bail application.

24.03.2022

Mr. Aijaz Ahmed Memon, Advocate for applicant. Ms. Rahat Ehsan, Addl. Prosecutor General a/w Ladho Khan P.S. Ghorabari.

Complainant-Waroo present in person.

ZAFAR AHMED RAJPUT, J:- Through instant Cr. Bail Application, applicant/accused Abdul Malik s/o Fazoo seeks pre-arrest bail in Crime No.81/2021 registered under Section 379/34, P.P.C. at P.S. Ghorabari. His earlier application for the same relief bearing No.1747 of 2021 was heard and dismissed by the learned Additional Sessions Judge-II, Thatta, vide order dated 16th December, 2021. He was admitted to interim bail by this Court vide order dated 15th February, 2022, now the matter is fixed for confirmation of interim bail or otherwise.

- 2. It is alleged that on 21.11.2021 at 0130 hours, buffalo of the complainant; namely, Waroo s/o Laloo was stolen by the unknown accused persons. The complainant and the villagers saw foot prints of four unknown thieves at the spot, they took the foot prints of thieves which led them towards the house of Shareef S/o Hakeem Khushik, they search for the stolen buffalo and later on came to know that the buffalo was stolen by the applicant, Shareef S/o Hakeem Khushik, Dost Ali S/o Haroon and Shareef S/o Esso Khushik for that they were booked in the aforesaid F.I.R.
- **3.** After hearing the learned counsel for applicant as well as learned Additional Prosecutor General and perusing the material

available on record. It appears that the co-accused have already been admitted to bail by the Court below. The alleged offence does not fall within the prohibitory clause of section 497 Cr.P.C. The recovery of alleged buffalo has not been made from the exclusive possession of the present applicant as the same was found tethered near to the house of the applicant under open sky. The applicant is not previously convicted of any offence. It has been argued by the learned Addl. extraordinary Prosecutor General that no and exceptional circumstances are available for the grant of extra-ordinary relief of prearrest bail to applicant. No doubt, it appears so, yet no purpose shall be served if the applicant who is otherwise entitled to bail first taken into custody and then he be granted post-arrest bail. Hence, interim bail already granted to the applicant vide order dated 15.02.2022 is confirmed on the same terms and conditions.

4. 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 applicant on merits.

Crl. Bail application stands disposed of.

JUDGE

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