

**HIGH COURT OF SINDH, CIRCUIT COURT
AT HYDERABAD**

Cr. Bail Application No.S-151 of 2023
Cr. Bail Application No.S-152 of 2023
[Zafar Khan versus The State]

Date	Order with signature of Judge
------	-------------------------------

Applicant : Through Mian Taj Muhammad Keerio advocate

State : Through Ms. Safa Hisbani Assistant P.G Sindh

Date of hearing: 03.03.2023

Date of decision: 03.03.2023

KAUSAR SULTANA HUSSAIN J.- This single order will decide the fate of both captioned bail applications, as both are interlinked to each other. Both these bail applications have been directed against Order dated 02.02.2023, whereby plea raised by the applicant for the same relief was turned down by the learned trial Court.

2. Facts of the matter, as per FIR, are that on 11.01.2023 an encounter took place between accused and patrolling police party near Cantt Graveyard, finally co-accused succeeded to make his escape good, however, the police arrested the present applicant/accused in injured condition and from his possession they recovered one unlicensed .32 bore pistol, hence two separate FIRs bearing No.04 of 2023 under Section 324, 353 & 34 PPC and 05 of 2023 under Section 23-A(i) Sindh Arms Act were registered at P.S Makki Shah Hyderabad.

3. Learned counsel for the applicant/accused contends that applicant/accused is innocent and has falsely been implicated in present crime; that there are no grounds to believe that the applicant/accused is guilty of the offence; that no such incident had taken place and entire story is managed one; that the case property has been foisted upon the applicant/accused; that though it is alleged that encounter had taken place, however, not a single injury had been caused to any of the official from police party; that even there is no scratch on police mobile; that no private mashir was associated though it is claimed by the police that they had prior information about presence of accused persons; that though it is alleged that applicant made firing with .32 bore pistol, however, no such empties were recovered from the place of incident. He lastly prayed for bail. In support of his contentions, he relied upon (i) 2021 YLR Note 104, (ii) 2022 YLR 949, (iii) 2019 MLD 1980 & (iv) 2020 P Cr.L.J Note 58.

4. On the other hand learned APG opposed the bail application and submitted that applicant/accused alongwith co-accused had made straight firing upon patrolling police party; that applicant was arrested at the spot and weapon was recovered from his possession with live bullets; that FSL report is in positive. She prayed for dismissal of bail applications.

5. I have heard the learned counsel for the applicant as well as learned APG and have also perused the material available on record.

6. The applicant is nominated in FIR with specific role of making firing at police party, in which he sustained injury. Applicant was arrested at the spot and weapon was recovered from his possession with live bullets, FSL report whereof is in positive. Applicant's counsel has failed to show any enmity with police, as to why he has been implicated in these crimes. Even besides these, there are other 32 cases registered against the present applicant/accused, as mentioned in the impugned Order of learned trial Court. The tentative assessment of the case implicates the applicant/accused with the commission of crime, therefore, he is not entitled for concession of bail. Accordingly, captioned bail applications are dismissed. The case laws relied upon by the counsel for the applicant have been perused and considered by me but do not find applicable to the facts and circumstances of the present case.

7. Needless to mention here that observations made hereinabove are tentative in nature and will not prejudice the case of either party at trial. Learned trial Court however, is directed to expedite the trial and conclude it within shortest possible time in accordance with law.

8. Captioned bail applications stand disposed of accordingly.

JUDGE

Sajjad Ali Jessar