

IN THE HIGH COURT OF SINDH AT KARACHI
Criminal Bail Application No. 1144 of 2023

Applicant : Iqtidar Ali s/o Sher Ali, through
Mr. Qadir Khan, advocate

Respondent : The State, through Mr. Syed Meeral Shah,
Addl. Prosecutor General, Sindh

Complainant : Mehar Ali s/o Anwar Ali, through
Mr. Mamoon A.K. Sherwany, advocate

Date of hearing : 21.06.2023
Date of order : 21.06.2023

ORDER

ZAFAR AHMED RAJPUT, J.- Through instant Criminal Bail Application, applicant/accused Iqtidar Ali s/o Sher Ali seeks post-arrest bail in Crime No. 217/2022, registered at P.S. Shahrah-e-Noor Jahan, Karachi under section 324 r/w section 302, P.P.C. His first application for the same relief in Sessions Case No. 1736 of 2022 was dismissed by the learned Additional Sessions Judge-VII/MCTC-2, Karachi-Central, vide order dated 18.10.2022; thereafter, applicant preferred his second Criminal Bail Application bearing No. 2089 of 2022 before this Court, which was disposed of vide order, dated 05.12.2022, directing to trial Court to conclude the trial within a period of two months. Subsequently, the applicant filed his third Criminal Bail Application before the said Trial Court in the said Sessions Case, which was too dismissed vide order dated 04.05.2023.

2. It is alleged that, on 04.04.2022 at about 1845 hours, present applicant caused cricket bat blow to Anwar Ali, 53 years of age, the father of the complainant, on his head who on 12.04.2022 succumbed to injury at Ziauddin Hospital, Karachi, for which, the applicant was booked in the instant case for committing *qatl-i-amd* of the said deceased. Motive behind the alleged *qatl-i-amd* was annoyance of the applicant with the deceased for demanding his money i.e. Rs. 50,000/- borrowed him.

3. Learned counsel for the applicant mainly contends that the applicant is innocent and has falsely been implicated in the case; that there is un-explained delay of two days in lodging of F.I.R.; hence deliberation and consultation for lodgings F.I.R. cannot be ruled out; that there is no eye-witness of the incident and the deceased died due to multiple diseases; that there is no forensic report of the CCTV recording and the images thereof are no visible; that the trial Court failed to conclude trial within the period of two months as directed by this Court vide order, dated 05.12.2022, passed in earlier Criminal Bail Application No. 2089 of 2022; that the complainant took his injured father first to Abbasi Shaheed Hospital on the same day and obtained MLC which fact he has not disclosed in his F.I.R. and he produced before police at the time of lodging F.I.R. A medical certificate of the Ziauddin Hospital for ulterior motive; that it is a fit case of further inquiry entitling the applicant for the concession of bail.

4. On the other hand, learned counsel for the complainant and learned Addl. P.G. oppose the instant application on the ground that since the deceased was hospitalized, F.I.R. could not be lodged promptly; that sufficient evidence is available with the prosecution to connect the applicant with the commission of alleged offence, which does not fall within the prohibitory clause of section 497, Cr.P.C. and the applicant failed to make out any ground for further inquiry.

5. Heard. Record perused.

6. The applicant is nominated in the F.I.R. by name with specific role of causing fatal injury to the deceased on his head. The ocular account is fully supported with medical evidence. Plausible explanation *prima facie* is available on record for the alleged delay in lodging F.I.R. Even otherwise, delay in lodging FIR is not *ipso facto* a ground for the grant of bail. It is well-settled principle of law that the directions issued by the High Court regarding conclusion of trial or recording of evidence within specific period is only an administrative direction

and same would not confer any right of bail on the accused, if the direction is not complied by the trial Court on account of any exigency or any fresh development in the case. In the instant matter, the trial of the applicant is being conducted in the Model Criminal Trial Court (MCTC) and the same is likely to be concluded speedily. So far the grounds of non-availability of eye-witnesses or non-visibility of the CCTV recording are concerned, suffice to say that the same cannot be attended without going beyond the scope of tentative assessment, a venture prohibited by law.

7. From the tentative assessment of the evidence in hands of prosecution, I am of the view that prima-facie sufficient evidence is available against the applicant to connect him with the commission of alleged offence, carrying punishment for death or imprisonment for life. Every hypothetical question which could be imagined would not make it a case of further enquiry simply for the reason that it could be answered by the trial Court subsequently after evaluation of evidence.

8. As a result of above discussion, the instant criminal bail application is dismissed. The above observations are tentative in nature for the disposal of the bail application and shall not influence the trial Court while deciding the case of the applicant on merits.

JUDGE

Athar Zai