

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.1574 of 2022

Date *Order with signature of Judge*

For hearing of Bail Application.

12.01.2023

Mr. Muhammad Farooq, Advocate along with Applicants (on bail).
Ms. Seema Zaidi, Addl. Prosecutor General, Sindh.
Mr. Kamran Alam, Advocate for the Complainant.

ORDER

Muhammad Saleem Jessar, J:- Through this application, applicant Muhammad Irfan seeks his admission on pre-arrest bail in Crime No.273/2022 of Police Station Saeedabad, Karachi, under Section 489-F PPC. The applicant preferred his anticipatory bail before the Court of Sessions wherefrom it was assigned to IV Addl. Sessions Judge, Karachi (West) vide Criminal Bail Application No.2606/2022 (re-Muhammad Irfan Versus The State), who after hearing the parties, has turned down his request through order dated 04.08.2022; hence, instant bail application has been maintained.

2. Since the facts of the prosecution case are already mentioned in the FIR, which is annexed with the Court file, therefore, there is no need to reproduce the same.

3. Pursuant to directions issued in previous order, the trial Court / Judicial Magistrate-IV, Karachi (West) has furnished its report with regard to the progress as well as status of the trial, which reveals that case before the trial Court was fixed on 29.10.2022 for framing of charge; however, counsel for the applicant submits that charge has been framed but the trial has not commenced.

4. Learned counsel for the applicant submits that the amount involved in this case is meager one; besides, the applicant has not misused the concession extended to him. He further submits the punishment provided by the law for the offence is three years and FIR is also delayed for about more than eight months; hence, prays for confirmation of bail.

5. Learned Addl. P.G, Sindh appearing for the State, records her no objection.

6. Learned counsel for the complainant opposes the bail application on the ground that per agreement executed by the applicant as well as complainant he is under obligation to make payment of the amount involved in this case; however,

admits that such agreement is part and parcel of the police papers and further undertakes to produce the complainant as well as witnesses before the trial Court on the next date of hearing viz. 24.01.2023 or as and when summoned by the trial Court.

7. **Heard arguments and perused record.** Admittedly, the incident is said to have taken place on 17.05.2021; whereas, FIR was lodged on 25.05.2022 for which no plausible explanation has been furnished by the prosecution for such an inordinate delay. The case is being tried by the Court of Judicial Magistrate where after recording evidence of the parties if prosecution may succeed to prove its charge against the applicant even then punishment of three years cannot be visualized.

8. In the circumstances and in view of dicta laid down by the Hon'ble Supreme Court of Pakistan in case of *MUHAMMAD TANVEER Versus The STATE and another (PLD 2017 SC 733)*, case against the applicant requires further inquiry within the meaning of sub-section 2 to section 497 Cr.P.C. Consequently, instant bail application is hereby allowed; interim bail granted earlier to applicant **Muhammad Irfan son of Abdul Jabbar** on 12.08.2022 is hereby confirmed on same terms and conditions.

9. The charge against accused has been framed, therefore, learned counsel for the complainant present, undertakes to produce the complainant as well as witnesses before the trial Court on 24.01.2023. Once, prosecution procures its witnesses, the trial Court shall examine all material witnesses and shall not grant any adjournment to any party on any ground. Before parting with this order; however, it is clarified that the reasoning given in this order are tentative in nature and will have no effect whatsoever in any manner upon the merits of the case.

10. Applicant present before the Court is directed to continue his appearance before the trial Court without negligence and in case he may misuse the concession or may temper with the prosecution's evidence then the trial Court is competent to take legal action against him as well to his surety in terms of Section 514 Cr.PC. Trial Court is also hereby directed to make necessary arrangements for securing attendance of the prosecution witnesses and conclude the trial within shortest possible time under intimation to this Court through MIT-II.

11. Let copy of this Order be communicated to trial Court through learned Sessions Judge, concerned. Learned MIT-II to ensure compliance.

JUDGE