

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

Crl. Bail Application No. 1723 of 2023

Applicant : Sher Muhammad  
through Syed Khurram Kamal, Advocate

Respondent : The State  
through Mr. Abrar Ali Khichi, Addl.P.G.

Date of hearing : 25<sup>rd</sup> October, 2023

Date of order : 27<sup>th</sup> October, 2023

**ORDER**

**Omar Sial, J:** Yousuf Bawani, who runs an electronic office, saw on his CCTV camera that three persons were burning something behind his house. He went to explore and saw that those persons were burning some pages out of the Holy Quran. Two of the three persons seemed to be Afghan garbage collectors, while the other was a Pathan. The Pathan was identified as Mujeeb-ur-Rehman, whereas Sher Mohammad (the applicant in these proceedings) was his father. The allegation against the applicant is that he stood on the spot and encouraged his son to burn the pages. F.I.R. No. 38 of 2023 was registered under section 295-B P.P.C. against the father-son duo at the PIB Colony police station.

2. I have heard the learned counsel for the applicant as well as the learned Additional Prosecutor General. The complainant did not affect an appearance despite notice.

3. The overt act has been assigned to the applicant's son. The applicant is an old, frail man who is accused of instigation. A very serious allegation has been imputed by the complainant against the applicant and his son. Despite its graveness and the seriousness of the offence, the investigating officer did not collect the CCTV footage upon which the incident unfolded. No explanation exists on record as to why such a lapse occurred. The CCTV footage was the best piece of evidence. The investigating officer not seizing

the same under a memo and sending it for forensic analysis is an investigation lapse, the impact of which will have to be decided by the learned trial court when evidence is led at trial. There also appears to be a four-day delay in the recording of witness statements. While the impact of such delay will be determined by the learned trial court, at the moment, malafide on the part of the complainant cannot conclusively be ruled out. Another aspect of the case is that if the applicants were guilty of the act, were they even aware of what they were doing? This is also an important aspect as the challan filed in the case itself seems to reflect that pages of the Holy Quran might have been mixed up with other waste paper. The investigator has opined in the challan that the accused should have thoroughly gone through the "junk" (in which the pages were ostensibly) before burning it.

4. Given the above, the case against the applicant appears to be one of further inquiry. He is therefore admitted to bail subject to his furnishing a solvent surety in the sum of Rs. 50,000 and a P.R. Bond in the like amount to the satisfaction of the learned trial court.

**JUDGE**