

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2781 of 2023  
Criminal Bail Application No.2782 of 2023

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Date	Order with signature of Judge
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For hearing of bail application

**21.12.2023**

Mr. Tahir-ur-Rehman advocate for the applicant in both bail applications  
Mr. Talib Ali Memon, Assistant PG

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Through these Criminal Bail Applications, applicant Aneel Ghani seeks post-arrest bail in FIR No. 292/2023, registered under Sections 353,324 read with section 186 PPC and in FIR No. 293/2023 under Section 23(1)(a) of the Sindh Arms Act 2013 at PS Kalakot Karachi, his earlier bail pleas have been declined vide order dated 04.11.2023 by learned Sessions Judge Karachi South in Criminal Bail Application Nos. 3799 and 3800 of 2023 on the premise that after the police encounter, the applicant was taken to hospital where he was examined; that the police in the exchange of firing apprehended the applicant/accused red-handed in injured condition, and from the Crime Scene, the Investigating Officer collected the blood-stained mud; and, there is sufficient evidence to connect the applicant with the crime.

2. The accusation against the applicant is that on 06.10.2023, HC Amjad Hussain along with other police personnel, were on patrolling duty, when they reached Adam Khan Road, Lyari Karachi, and received spy information that one person was standing at Mirza Adam Khan Road, near Aalishan Masjid Kalakot Lyari Karachi, having arms for committing dacoity, thereafter they tried to apprehend the applicant who after seen the police party, started firing upon them to kill, where after the applicant was arrested and police recovered one 30 bore TT pistol with loaded magazine along with 01 live bullet from the possession of the applicant, thereafter police lodged FIR No. 292/2023 under Section 353/324/186 PPC and FIR No. 293/2023 under Section 23(1)a of the Sindh Arms Act 2013 at PS Kalakot against the applicant.

3. Learned counsel for the applicant/accused mainly argued that the applicant/accused is innocent and has falsely been implicated in these cases with mala fide intention and ulterior motives. He further argued that according to the FIR, the applicant /accused fired upon the police party but strangely none of the police personnel received a single scratch or no bullet hit the police mobile. He next contended that no offense under Section 324 PPC is made out against the applicant, nobody has received bullet injury from the hands of the applicant, and the offense under Section 353 PPC is bailable. He further argued that there is no eyewitness

of the incident who had seen the incident or alleged police encounter. He further submitted that no injury has been caused to any member of the police personnel as such the applicant/accused be enlarged on bail in terms of the ratio of the Judgment passed by the Supreme Court in the case of **Saeedullah (2023 SCMR 1397)**, wherein Supreme Court while granting the bail, observed that complainant sustained the injury on non-vital part and as many as 37 empties had been recovered from the crime scene, which prima facie suggests that accused had no intention to kill the complainant. He lastly prayed for allowing both bail applications in terms of the ratio of the Judgment passed by the Supreme Court and this Court in the cases of *Jawed v The State 2016 P. Cr. L.J Note.54*, *Asif Ali Zangejo v The State 2017 MLD 46* and *Junaid v The State 2000 P. Cr. L.J 1510*

4. The learned APG has supported the impugned order passed by the learned Trial Court. He further submitted that the challan has been submitted and if the applicant/accused is released on bail there is a likelihood of his repeating the offense. He lastly prayed that the applicant/accused is not entitled to the concession of bail; therefore, the bail applications may be dismissed.

5. I have heard learned counsel for the applicant and learned APG for the State, and also gone through the record available before me.

6. From the perusal of the contents of the FIR, it appears that police personnel were on patrolling duty, and in the intervening period encounter with the applicant took place, after that the applicant was arrested and police recovered one 30-bore TT pistol with a loaded magazine along with 01 bullet alive from the applicant. This story has been negated by the applicant on the premise that no such incident has taken place and the applicant was fired upon by the police without his involvement in any criminal case and made a case of fake police encounter, this factum needs to be looked into by Trial Court after recording the evidence.

7. It is a case of ineffective firing. The applicant is booked in the subject crimes and no one is injured nor it is reported as such except the applicant. Even the police mobile was not stated to have suffered from any effective or ineffective firing. The judgment cited by the learned counsel for the applicant is identical on the point and the touchstone of the principle laid down in the above-referred case law. The applicant is entitled to bail in FIR No. 292/2023, registered under Sections 353,324 read with section 186 PPC, and in FIR No. 293/2023 under Section 23(1)(a) Sindh Arms Act 2013 at PS Kalakot Karachi subject to his furnishing solvent surety of Rs.50,000/- in each case and P.R bond in the like amount to the satisfaction of trial Court in both the cases.

8. Needless to say the observations made in this order are tentative and shall not influence the trial Court while concluding the case. The learned trial Court is to expeditiously proceed with the trial under the law and examine the complainant within one month and if the charge is not framed, the same shall be framed positively on the next date of hearing.

JUDGE