

Order Sheet

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Bail Appln: No.S-699 of 2023

DATE

ORDER WITH SIGNATURE OF JUDGE(S)

For orders on office objection
For hearing of main case

07.08.2023

Mian Ejaz Saifal advocate for applicant.
Ms. Rameshan Oad, A.P.G. for the State.

ZULFIQAR ALI SANGI, J :- Through this bail application, applicant Arslan s/o Liaquat Malik seeks his post arrest bail in Crime No.26 of 2023, registered at PS Mashakh Hothi, Tando Allahyar for offences under sections 324, 353,147,148,149 and 379, PPC. After his bail application was declined by learned trial Court vide order dated 20.06.2023.

2. Since the facts of the prosecution case are already mentioned in F.I.R as well impugned order, therefore, there is no need to reproduce the same.

3. It is contended by learned counsel for applicant that applicant is innocent and has been falsely implicated in this case with malafide intention; that alleged recovery has been foisted upon the applicant; that per FIR, it is alleged that accused persons caused straight firing to kill them, but no person from police party was received any injury nor any dent on police mobile; that all PWs are police officials and no independent witness is cited by police from the place of alleged incident; that applicant is in jail since 25.05.2023 and challan has already been submitted before the concerned Court, hence his custody is no more required by the police. In these circumstances, learned counsel for the applicant prayed that the applicant may be enlarged on bail. In support of his contention, learned counsel has relied upon 2023 SCMR 679 and 2023 SCMR 734.

4. After contentions of learned counsel for the applicant and going through the record, learned A.P.G has conceded to the grant of bail to the applicant.

5. Heard learned counsel for the applicant and learned A.P.G for the State and gone through the material available on record with their able assistance.

6. Admittedly, per FIR , encounter took place between the police party and the accused for about ten minutes, but none from either side has received any injury or any dent to the police mobile, therefore, it is yet to be determined by the trial Court after recording evidence as their evidence is required to be minutely scrutinized at the time of trial whether the offence as narrated in F.I.R. by the complainant, allegedly committed by the applicant in a fashion as alleged or otherwise. There is nothing on record to show that any incriminating article has been recovered from the applicant or record to show that he is previous convict or has been arrested in a case of similar nature in past. No doubt, all PWs are police officials and no independent witness has been cited in this case. The applicant is behind the bar since his arrest and challan of the case has already been submitted before the competent Court of law, hence he is no more required by the police for further investigation of the case. The offence with which the applicant is charged, does not fall within the prohibitory clause of section 497(2) Cr.P.C and this fact has not been disputed by learned A.P.G, therefore, the applicant is entitled for grant of bail.

7. In view of above reasons, I am of the opinion that applicant has made out a case for further inquiry at this stage. Consequently, the instant bail application is allowed and applicant is admitted to post arrest bail in the sum of Rs.100,000/-(Rupees one hundred thousand only) and PR bond in the like amount, to the satisfaction of learned trial Court.

8. The observations made herein above are tentative in nature and shall not prejudice the case of either party at the time of trial.

This bail application stands disposed of in the above terms.

JUDGE