

# IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.784 of 2023

Applicant : Noor Muhammad S/o Muhammad Saeed  
through Mr. Zakir Hussain Bughio,  
Advocate

Respondent : The State  
Through Mr. Siraj Ali Chandio,  
Addl. P.G., Sindh

Date of hearing : 08.09.2023

Date of order : 08.09.2023

## **ORDER**

**AMJAD ALI SAHITO, J** -- Through this Bail Application, applicant/accused seeks post-arrest bail in Crime No.243/2020 for the offence under Sections 302, 34 r/w section 364 PPC registered at PS Aziz Bhatti, after his bail plea has been declined by the learned Additional District & Sessions Judge-I, Karachi East vide order dated 17.03.2023.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Per learned counsel for the applicant, initially the applicant was convicted and sentenced for life imprisonment vide judgment dated 05.03.2021 and thereafter the applicant preferred an appeal before this Court which was subsequently set aside vide judgment dated 26.09.2022 and the case was sent back to the trial Court for denovo trial of the accused persons as the present accused was minor at the time of commission of offence; that though the schedule has been given by the learned trial Court and one witness has been examined but no further progress has been made; that prior to this, the applicant moved a bail application before this Court which was disposed with directions to the learned trial Court; that the applicant is innocent and has falsely been implicated in this case; that the applicant is in jail for last three years and is no more required for further investigation. He has

filed examination in chief of Majid. Lastly he prays for grant of bail. In support of his contentions, he has relied upon the cases reported as Khawar Kayani vs. The State and others (PLD 2022 Supreme Court 551), Saleem Khan vs. The State and others (PLD 2020 Supreme Court 356) and Ejaz Ahmed vs. The State (2000 YLR 1086).

4. On the other hand, learned Addl. PG has vehemently opposed for grant of bail on the ground that the name of the applicant transpires in the FIR and he was rightly convicted by the trial Court; however, on the basis of technicalities, this Court set aside the judgment and remanded back the case to the trial Court; that though the applicant was minor at the time of commission of offence but now he has attained the age of majority.

5. I have heard the learned counsel for the parties and have perused the material available on record.

6. The case of the prosecution is that on the day of incident, three accused persons Saeed and his two sons namely Owais and Noor kidnapped the deceased with reason that he was spy of police and thereafter, he was murdered by them. On the basis of that evidence, the accused were convicted by the trial Court vide judgment dated 05.03.2021; however, when the present applicant preferred an appeal against the said judgment, this Court set aside the same on the ground that the applicant was minor and the matter was remanded back for denovo trial. From perusal of record, it reflects that the ocular evidence finds support from the medical evidence. The prosecution witnesses have fully supported the version of the complainant. Further, the learned trial Court has announced the schedule and examined one witness, as such, reliance is placed in the case of **Rehmatullah v. The State (2011 SCMR 1332)**, wherein the Hon'ble Supreme Court of Pakistan has held that the courts should not grant or cancel bail when the trial is in progress and proper course for the courts in such a situation would be to direct the learned trial Court to conclude the trial of the case within a specified period.

7. In view of the above, learned counsel for the applicant has failed to make out a case for grant of post-arrest bail in terms of subsection 2 of Section 497 Cr.P.C. Accordingly, the instant Bail Application is **dismissed**.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant on merits.

JUDGE

Kamran/PA