

## IN THE HIGH COURT OF SINDH AT KARACHI

### Criminal Bail Application No.1370 of 2023

Applicant : Noman S/o Naseer Ahmed  
Through Mr. M. Abdul Basit, Advocate

Complainant : Muhammad Atif S/o Muhammad  
Azam Khan  
Through Mr. Muhammad Hanif,  
Advocate

Respondent : The State  
Through Mr. Abrar Ali Khichi, Addl.  
Prosecutor General, Sindh

Date of hearing : 04.09.2023

Date of order : 04.09.2023

### **ORDER**

**AMJAD ALI SAHITO, J** -- Through this Bail Application, applicant/accused seeks post-arrest bail in Crime No.189/2023 registered under Sections 302, 324, 34 PPC at PS K.I.A., after his bail plea has been declined by the Additional District & Sessions Judge-I, Karachi East vide order dated 26.04.2023.

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. Learned counsel for the applicant submits that the applicant is innocent and has falsely been implicated by the complainant; that though the name of the applicant appears in the FIR but no specific role has been assigned against him; that in fact, the applicant has not committed any offence but he has been implicated due to personal enmity; that the challan has been submitted and the applicant is no more required for further investigation. He lastly prays for grant of bail.

4. On the other hand, learned counsel for the complainant has vehemently opposed for grant of bail and states that the applicant was present at the place of incident, however, on Court's query whether the applicant came on motorcycle with the accused, he replies that the applicant was only present at the place of incident. Learned Addl. P.G. also opposes for grant of bail to the applicant/accused.

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

6. Admittedly, the name of the applicant transpires in the FIR but from the face of FIR as well as video clip and CCTV installed at the place of incident, only mere presence of the applicant has come on record; however, no specific role has been attributed against him to believe that as to how he has involved in the commission of alleged offence. In the case of **Qurban Ali vs. The State (2017 SCMR 279)**, the Hon'ble Supreme Court of Pakistan has granted bail to the accused who had not been attributed any role except the role of raising larkara. In such circumstances, trial Court had to determine, after recording pro and contra evidence, whether the accused was vicariously liable for the acts of his co-accused. The case against the accused was one of further enquiry. In another case reported in **1996 SCMR 1125 (Mumtaz Hussain and 5 others vs. The State)**, the Hon'ble Supreme Court has granted bail to the accused despite allegedly armed with deadly weapons only caused simple injuries to some of the prosecution witnesses. In such circumstances, the role against present applicant will be decided at the time of trial when evidence will be recorded. Learned counsel pleaded malafide on the part of complainant that he implicated the present applicant, otherwise he has not committed any offence. At bail stage, only a tentative assessment is to be made and deeper appreciation of the record is not permissible.

7. In view of the above, learned counsel for the applicant has made out a case for grant of post-arrest bail. Accordingly, the instant bail application is allowed. Applicant/accused named above is granted post-arrest bail subject to his furnishing solvent surety in the sum of Rs.100,000/- (Rupees

once lac only) and PR bond in the like amount to the satisfaction of the learned trial Court.

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/accused on merits.

JUDGE

Kamran/PA