

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.832 of 2024

Applicant : Muhammad Kashif S/o Muhammad Arif
through Mr. Shaukat Ali Khan, Advocate

Complainant : Muhammad Ismail S/o Ghous Bukhsh
through Mr. Tariq Mehmood, Advocate

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

Date of hearing : 02.07.2024

Date of order : 02.07.2024

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicant/accused seeks post-arrest bail in Crime No.42/2024 for the offence under Sections 392, 302, 34 PPC registered at PS Mubina Town, after his bail plea has been declined by the learned Additional District & Sessions Judge-I, Karachi East vide order dated 22.03.2024.

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 has mainly contended that the applicant/accused is innocent and has falsely been implicated in this case; that neither the applicant/accused fired upon the deceased nor he had pistol in his hands but subsequently, he was arrested when he was admitted in hospital; that the applicant/accused is in jail and he is no more required for further investigation. He lastly prays for grant of post-arrest bail.

4. On the other hand, learned counsel for the complainant and learned Addl. PG have vehemently opposed for grant of bail.

5. Heard and perused. From perusal of record, it reflects that the deceased was present at Gabol Park where three unknown persons duly armed with weapon tried to rob his mobile phone and other articles when he resisted then they fired upon him. Resultantly, he became seriously injured and shifted to hospital

where he informed the complainant about the incident. Whereas, during the incident, one accused/present applicant also received bullet injury and his companion also brought him to the hospital where through CCTV, the applicant was identified and on the basis of CCTV footages, he was arrested and implicated in this case. The Section 397 PPC provides that *“If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, everyone of those persons shall be punished with death, or imprisonment for life, or rigorous imprisonment for a term which shall not be less than four years nor more than ten years, and shall also be liable to fine.”* The offence in which the applicant is charged falls within prohibitory clause of Section 497 Cr.P.C. whereas, the punishment provided under Section 302 PPC is for death or imprisonment for life.

6. In view of the above discussion, 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**.

7. 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