

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.**

Criminal Bail Application No.S-1204 of 2023

Applicant : Ashfaque Soomro through Mr. Altaf Shahid Abro,
Advocate.

Complainant : Present in Person.

State : The State through Mr. Imran Ahmed Abbasi,
Assistant Prosecutor General, Sindh.

Date of hearing : **15.01.2024**

Date of Order : **15.01.2024**

O R D E R

AMJAD ALI SAHITO, J:- Through the instant bail application, the above named applicant/accused seeks his post-arrest bail in Crime No.64 of 2023, under section 302 PPC, registered at P.S Bulri Shah Karim, after his bail plea was declined by the learned Additional Sessions Judge-I, Tando Muhammad Khan, vide his order dated 02.10.2023.

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

3. Learned counsel for the applicant/accused mainly contended that the applicant/accused is innocent and he has been falsely implicated in this case; that the F.I.R is delayed about four (04) days whereas the name of the applicant/accused does not appear in the F.I.R; that further statement of the complainant has been recorded after the delay of 13 days in which he implicated the present applicant/accused; that the alleged offence is unseen and the complainant has not disclosed the source of identification as to how he has got information regarding the involvement of the applicant / accused in the commission of offence and, that the challan of this case has already been submitted and the applicant/accused is no more required for further enquiry.

4. On the other hand, learned Assistant Prosecutor General, Sindh along with complainant has vehemently opposed to the grant of bail.

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

6. From the face of the F.I.R it transpires that the complainant has lodged F.I.R against unknown persons whereas this is an unseen incident. It is an admitted position that after the delay of 13 days the complainant in his further statement has disclosed the name of the present applicant/accused in the commission of offence. The F.I.R is delayed about (04) days for which no plausible explanation has been furnished by the complainant. The complainant has not disclosed the source of information in which he has disclosed the name of applicant / accused in the commission of offence. However, it is yet to be seen as to whether the offence has been committed unless the evidence is to be recorded. In these circumstances, the case of the applicant/accused falls within the ambit of sub-section (2) of section 497 Cr.P.C. Learned counsel for the applicant/accused has pleaded malafide on the part of the complainant for false implication of the applicant/accused in this case which cannot be ruled out.

7. In view of the above, at bail stage, only a tentative assessment is to be made. The learned counsel for the applicant/accused has made out a case for grant of post-arrest bail, resultantly instant Criminal Bail Application is allowed and the applicant/accused Ashfaque s/o Mushtaque Ahmed Soomro is admitted to bail subject to his furnishing solvent surety in the sum of Rs.1,00,000/- [Rupees One Hundred Thousand] and P.R. bond in the like amount to the satisfaction of 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 on merits.

JUDGE

Hafiz Fahad