

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Bail Application No.S-556 of 2024
(Shamshad Shah vs. The State)

Date	Order with Signature of Hon'ble Judge
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For hearing of pre-arrest bail application

15.11.2024

Mr. Nusrat Hussain J.Memon, Advocate along with Applicant
Syed Sardar Ali Shah Rizvi, Additional PG for the State along
with Complainant Mujahid Ali.

O R D E R

ZULFIQAR ALI SANGI, J:- In compliance of order dated 14.11.2024, SSP, Naushahro Feroze has filed reply of Show Cause Notice, which is taken on record. Since complainant Mujahid Ali has been served and produced by SSP, Naushahro Feroze, therefore, the Show Cause Notice issued to him is hereby vacated.

Through this bail application, applicant/accused Shamshad Shah seeks pre-arrest bail in Crime No.129 of 2024 registered under Section 392 and 34 PPC at Police Station, Bhiria City, after dismissal of his bail plea by the learned Additional Sessions Judge-II, Naushahro Feroze vide order dated 09.08.2024, hence he approached this Court for the same relief.

2. The crux of the FIR allegation is that on 01.07.2024 when complainant Mujahid Ali along with his friend Sarfraz Siyal was going to his village Daali on his CD-70 motorcycle Model, 2020, he was chased and stopped by the accused at about 0930 hours, out of them complainant identified one of them as Pir Shamshad having pistol and two unknown persons, if seen again would be recognized. Accused Pir Shamshad robbed the motorcycle, one mobile phone of OPPO Company and cash of Rs.15000/- from complainant, while one of the unknown accused robbed from his friend Sarfraz cash of Rs.8000/- and one mobile phone of Infinix Model Hotplay and then escaped away, hence instant FIR has been registered against them.

3. It is contended by learned counsel that the applicant is innocent and has falsely been implicated in this case due to enmity with the local police; that police of Bhiria had entered into the house of applicant and taken away his motorcycle and foisted the same upon different persons, therefore, father of applicant namely Pir Irshad Shah moved applications to the higher authorities of police and also filed a CrI. Misc. Appln. No.2614 of 2024 before the Court of Sessions Judge/ Ex-Officio Justice of Peace, Naushahro Feroze, on which direction were issued to SHO Bhiria to record his statement u/s 154, CrPC; that there is no material available on record connecting the present applicant with the commission of the offence; that the alleged offence does not fall within the prohibitory clause of Section 497, CrPC. He has lastly prayed that the case of the applicant requires further inquiry and he is entitled for the concession of pre-arrest bail. In support of his contentions, he has relied upon the *cases of Fahad Hussain and another vs. The State through PG Sindh (2023 SCMR 364); Shehzore and another vs. The State (2006 YLR [Karachi] 3167); Muhammad Fayaz vs. The State (2010 YLR [Karachi] 1934); Akbar vs. The State (2011 YLR [Karachi] 1795) and Talib Hussain vs. The State (2014 YLR [Sindh] 1319).*

4. The bail plea has been opposed by complainant-Mujahid Ali as well as the learned Additional PG on the ground that applicant is nominated in the FIR with specific role and there appears sufficient material available on record against the applicant which connect him with the commission of alleged offence, therefore, he is not entitled for grant of extra ordinary concession of pre-arrest bail. Learned Addl. PG in support of his contentions places reliance on the cases of *Muhammad Aneeq Vs. The State [2012 MLD 581]* and *Aqeeb Ali Mehmood Vs. The State and another [2017 P Cr. L J Note 129]*.

5. Heard learned counsel for the respective parties and record perused.

6. From perusal of record it reflects that applicant is nominated in FIR with specific role that he has robbed cash, mobile phone and motorbike CD-70 Model, 2020 from complainant-Mujahid Ali and he being resident of same vicinity has rightly been identified by the

complainant. The PW namely Sarfraz Siyal who is also the victim of the incident was also robbed of his cash and mobile phone by one of the accomplices of the present applicant has supported the version of complainant in his 161 CrPc statement. The cases like involving snatching of motorbikes, mobile phones and other valuable articles are increasing day to day in the vicinity where the applicant is residing, therefore, there is need of some deterrence and the accused involving in such like offences are to be dealt with Iron hands. The grant of pre-arrest bail is an extra ordinary relief which can only be granted to the innocent person or to the person to whom some *mala fide* has been assigned against the prosecution, which are missing in the instant case. The case law relied upon by learned counsel for the applicant is not applicable to the facts and circumstances of the case in hand.

7. In view of the above, the applicant is not entitled for grant of pre-arrest bail. Resultantly, instant Criminal Bail Application is dismissed and the order dated 19.08.2024 whereby the applicant was granted interim pre-arrest bail, is hereby recalled.

8. The observations made hereinabove are tentative and would not influence the learned Trial Court at the time of deciding the case as the same are only for deciding this bail application.

Judge