

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. 1503 of 2024

<i>Date</i>	<i>Order with signature of Judge</i>
Applicants	: through M/s. Javed Ali & Razi Khan, Advocates
1. Syed Saqib Ali son of Syed Israr Ali	
2. Abdul Majid son of Abdul Raheem	
3. Muhammad Nawab Uddin Son of Nizam Uddin	
4. Muhammad Furqan Son of Abdul Rehaman	
5. Aijaz Ahmed Khan Son of Ghulam Ahmed Khan	
6. Syed Muhammad Adeel Son of Syed Muhammad Mushtaq	
7. Syed Arif Ali Son of Syed Israr Ali (present on bail)	
The State	: Through Mr. Saleem Akhtar Buriro, Addl. Prosecutor General, Sindh.
Complainant Zahid Ahmed	: through Ms. Shabana Mairaj, Advocate
Date of hearing	: 07.10.2024
Date of order	: 07.10.2024

ORDER

Muhammad Saleem Jessar, J:- Through this application, applicants seek their admission to pre-arrest bail in Crime No.198 of 2024 registered with Police Station Sharif Abad, Karachi, for the offence punishable to Section 289, 380 & 34 PPC. The case has been challaned which is now pending for trial before the Court of Civil Judge & Judicial Magistrate-IX, Karachi (Central) vide Criminal Case No.2458 of 2024 (re-the Sate Versus Saqib and others) where formal charge against accused has also been framed on 28.09.2024. The applicant preferred their anticipatory bail before the Court of Sessions wherefrom it was assigned to Addl. Sessions Judge-VI, Karachi

(Central) vide Bail Application No.1295 of 2024 (re-Syed Saqib Ali and others Versus The State), who after hearing the parties, has turned down their request through order dated 05.07.2024; hence, instant bail application has been maintained.

2. Since the facts of the prosecution case are already mentioned in the FIR, which is annexed with the Court file, therefore, there is no need to reproduce the same.

3. Learned counsel for the applicants submits FIR is delayed for about a month for which no plausible explanation has been furnished; besides, the offence with which accused have charged, carries maximum punishment up to seven years, thus does not exceed limits of prohibitory clause of section 497 Cr.P.C. He, therefore, prays for confirmation of the bail.

4. On the other hand learned Addl. P.G, Sindh appearing for the State, opposes the bail application on the ground that accused are nominated in the FIR; besides, recovery of stolen articles have not been effected. He; however, could not controvert the fact that offence with which they have been charged, carries maximum punishment up to seven years and thus does not exceed limits of prohibitory clause of section 497 Cr.P.C.

5. Learned counsel for the complainant also opposes the bail application and submits that police have not effected recovery of alleged stolen articles, therefore, bail applications merits no consideration. She, therefore, prays for dismissal of the bail application.

6. **Heard arguments and perused record.** Per FIR, the incident is said to have occurred on 30.04.2024; whereas, report thereof was lodged on 31.05.2024 i.e. the delay of about one month though the distance between police station and place of occurrence, as shown, is one kilometer; however, no plausible explanation has been furnished by the prosecution for such an inordinate delay. The offence with which accused stand charged, carries maximum punishment up to seven years; besides, the case is being tried by the Court of Judicial Magistrate where after recording evidence if the prosecution may succeed to prove its charge against accused even then punishment of more than three years cannot be visualized. Reliance can be

placed upon the case of MANZOOR ALI alias MUMTAZ Versus THE STATE (2001 P.Cr.L.J 344).

7. In the circumstances and in view of dicta laid down by the Hon'ble Supreme Court of Pakistan in case of *MUHAMMAD TANVEER Versus The STATE and another (PLD 2017 SC 733)*, case against applicants requires further inquiry in terms of subsection (2) to section 497 Cr.P.C. Consequently, instant bail application is hereby allowed; interim bail granted earlier to applicants **(i) Syed Saqib Ali son of Syed Israr Ali, (ii) Abdul Majid son of Abdul Raheem, (iii) Muhammad Nawaz Uddin son of Nizam Uddin, (iv) Muhammad Furqan son of Abdul Rehaman, (v) Aijaz Ahmed Khan son of Ghulam Ahmed Khan, (vi) Syed Muhammad Adeel son of Syed Muhammad Mushtaq and (vii) Syed Arif Ali son of Syed Israr Ali** on 08.07.2024 is hereby confirmed on same terms and conditions.

8. Applicants present before the Court are directed to continue their appearance before the trial Court without negligence and in case they may misuse the concession or may temper with the prosecution's evidence then the trial Court would be competent to take legal action against them as well to their surety(ies) in terms of Section 514 Cr.PC. Trial Court is also hereby directed to make necessary arrangements for securing attendance of the prosecution witnesses and conclude the trial within shortest possible time under intimation to this Court through MIT-II.

9. Let copy of this Order be communicated to trial Court through learned Sessions Judge, concerned. Learned MIT-II to ensure compliance.

JUDGE

Zulfiqar/P.A