

## IN THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No. 2220 of 2023

Applicant : Ghulam Qadir @ Chee Chu  
through Mr. Mushtaque Ahmed,  
Advocate a/w applicant

Respondent : The State  
through Mr. Saleem Akhtar Buriro,  
Additional Prosecutor General, Sindh

Date of hearing : 25<sup>rd</sup> September, 2024

Date of Order : 8<sup>th</sup> October, 2024

### ORDER

**Omar Sial, J.**: A woman named Zoya went to the Surjani Town police station on 26.03.2022. She complained that on 24.03.2022 because she had registered an F.I.R. earlier (No. 186 of 2022) against the accused party, she was abducted by Saleem Afzal, Ghulam Qadir, Gul Khan, and two other unknown persons. Ghulam Qadir and Gul Khan allegedly raped her. F.I.R. No. 532 of 2022 was registered under sections 365, 376, and 34 P.P.C.

2. Ghulam Qadir sought pre-arrest bail from the learned 10<sup>th</sup> Additional Sessions Judge, Karachi West. The application was dismissed vide order dated 23.05.2022. Instead of surrendering, Ghulam Qadir approached the High Court for pre-arrest bail by filing Criminal Bail Application No. 1044 of 2022. His bail application was dismissed on 10.08.2022 on account of non-prosecution.

3. In **Azam Saleem vs The State and others (PLD 2021 SC 894)**, it was observed by the Supreme Court that:

*“It is also clarified that in case the petition is dismissed for non-appearance of the accused in a pre-arrest bail matter under section 498-A, Cr.P.C., the petitioner can file a fresh bail petition*

*before the same Court provided that he furnishes sufficient explanation for his non-appearance in the earlier bail petition and the Court is satisfied with his said explanation. But if he fails to furnish any satisfactory explanation, his second bail petition is liable to be dismissed on account of his conduct of misusing the process of Court disentitling him to the grant of discretionary relief of pre-arrest bail. In the present case, the High Court could not have dismissed the petition on merits, in addition to dismissing the same for non-prosecution due to the personal absence of the petitioner under section 498-A, Cr.P.C.; therefore, the observations of the High Court regarding the merits of the case are not sustainable and hereby set aside. The petitioners are free to file a fresh bail petition, if so advised, before the High Court by giving explanation for their absence before the Court in their first bail petition and if the Court is satisfied with their explanation, it would decide their petition on merits.”*

4. The first bail application of Ghulam Qadir was dismissed for non-prosecution on 10.08.2022. He filed the second bail application on 25.09.2023. Learned counsel was asked the reason for the applicant to be a fugitive from law for 13 months. He explained that it had “*rained heavily.*” The reason why the explanation was unsatisfactory is apparent and does not require any analysis or comment.

5. The bail application is dismissed.

**JUDGE**