

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. 1830 of 2024

<i>Date</i>	<i>Order with signature of Judge</i>
Applicant Ahmed Ali Bhatti son of Zulfiqar Ali	: through Mr. Abdul Wahab Bhutto, Advocate
The State	: through Mr. Khadim Hussain, Addl. Prosecutor General, Sindh.
Complainant Muhammad Sarwar Bhatti	: In person
Date of Hearing	: 09.10.2024
Date of Order	: 09.10.2024

ORDER

Muhammad Saleem Jessar, J:- Through this application, applicant Ahmed Ali Bhatti seeks his release on post arrest bail in Crime No.268 of 2024 registered with P.S Gulistan-e-Johar, Karachi for the offence punishable to Section 397 & 34 PPC. The case has been challaned which is now pending for trial before the Court of Addl. Sessions Judge-III, Karachi (East) vide Sessions Case No.3019 of 2024 (re-the State Versus Ahmed). The applicant filed bail plea before the trial Court which by means of order dated 27.07.2024 was declined; hence, instant 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 applicant submits that the incident is said to have taken place on 11.03.2024; whereas, report thereof was lodged on 14.03.2024 i.e. with delay of about four days though the distance between police station and place of occurrence is three kilometers. The prosecution has failed to furnish plausible explanation for such an inordinate delay. He next submits that applicant was arrested by the police on 22.04.2024; however, on the following day viz. 23.04.2024 two pairs of Chapal as well as ladies suit were recovered at his pointation, which according to learned counsel, were foisted and nothing was produced by the accused, though alleged. He, therefore, submits that case against applicant requires further inquiry; hence, prays for grant of bail.

4. On the other hand, learned Addl. P.G, Sindh appearing for the State, opposes the bail application on the ground that certain robbed articles have been shown to have been produced by the accused. He; however, could not controvert the fact that there was no identification parade nor any offensive weapon has been shown to have been recovered from his possession at the time of his arrest.

5. Pursuant to process issued earlier, complainant Muhammad Sarwar Bhatti is present in person and states that he has no means to engage a counsel on his behalf; however, opposes the bail application on the ground that applicant along with co-accused had committed the offence, therefore, he is not entitled for the bail.

6. **Heard arguments, record perused.** Admittedly, the FIR is delayed for about four days for which no plausible explanation has been furnished by the prosecution. The delay in criminal cases has always been held by the superior Courts to be fatal for the prosecution. Though the FIR was delayed even then none of the accused was named therein and after about a month from registration of the case, applicant was arrested and subsequently certain articles have been shown to have been produced by him before the police during investigation. After his arrest, accused was not subjected to identification parade. The offence with which applicant stands charged, carries punishment of two folds and the other one is of seven years which does not exceed limits of prohibitory clause of section 497 Cr.P.C.

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 applicant requires further inquiry within meaning of subsection (2) to section 497 Cr.P.C. Consequently, instant Criminal Bail Application is hereby allowed. Applicant **Ahmed Ali Bhatti son of Zulfiqar Ali** shall be released on bail subject to furnishing his solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousands Only) and P.R Bond to the satisfaction of learned trial Court.

8. Needless to observe that the observations made hereinabove are tentative in nature and the learned trial Court shall not be prejudiced by any such observations and shall decide the case on merits in view of the evidence available on record.

JUDGE

Zulfiqar/P.A