

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Criminal Bail Application No. S-06 of 2020 ⁷.

Applicant : Muhammad Ali Bhutto s/o. Liaquat Ali, through
Mr. Ahmed Bux Abro, Advocate

Respondent : The State, through Mr. Ali Anwar, APG

Complainant : Aftab Ali Memon s/o. Ahmed Ali, through
Mr. Ghulam Rasool Pathan

Dates of hearing : -----
: 10.02.2020
Date of order : 10.02.2020
: -----

ORDER

ZAFAR AHMED RAJPUT, J:- Having been rejected his earlier bail application bearing No. 1331 of 2019 by the learned IVth Additional Sessions Judge, Larkana vide order dated 12.10.2019, applicant/accused Muhammad Ali Bhutto s/o. Liaquat Ali through instant criminal bail application seeks pre-arrest bail in Crime No. 53 of 2019, registered at P.S Taluka, under Section 337-J, 377,511, 34, P.P.C. He was admitted to interim pre-arrest bail by this Court vide order dated 06.01.2020, now the matter is fixed for confirmation or otherwise.

2. Briefly stated, the facts of the prosecution case as narrated in the aforesaid F.I.R. lodged on 26.09.2019 by the complainant, namely, Aftab Ali Memon s/o. Ahmed Ali, are that on 25.09.2019 at 7:00 p.m. he attended a phone call of applicant/accused asking him to come at Sangi Hotel. The complainant after informing Nazir Hussain and Wahid Bux went to said hotel on his motorcycle, where one XLI car was parked in which applicant and three unknown persons were present, from there they took the complainant to Luhur Petrol Pump where applicant gave him cold drink which was intoxicated and then they came at Professor Colony at 8:00 p.m. where in a vacant plot he removed shalwar of complainant and then all the accused tried to have carnal intercourse with him and due to such act his shalwar stained with semen; he was lying semi-

unconscious, and then someone made a call from complainant's mobile phone to his father, who reached there at 10:30 p.m. and took him to police station.

3. Learned counsel for the applicant has mainly contended that the applicant is innocent and has falsely been implicated in this case for ulterior motive; that there is no reasonable ground for believing that the alleged offence has been committed by the applicant and since final medical report does not support the contents of F.I.R, the guilt of applicant requires further enquiry under sub-section (2) of Section 4967 Cr. P.C. entitling the applicant for concession of bail; that the applicant is a respectable person and in case he is not admitted to bail, he shall suffer irreparable loss.

4. On the other hand, learned counsel for the complainant has opposed this application on the ground that the applicant has been nominated in the F.I.R. with specific role for attempting to commit, along with unknown co-accused persons, the alleged offence and there is no ill-will on the part of complainant to implicate him falsely with commission of alleged offence.

5. Learned A.P.G. however, concedes that since the final medical report is not supportive to the contents of F.I.R., the case of the applicant squarely falls within the ambit of further enquiry.

6. Heard the learned counsel for the applicant and A.P.G. for the state and scanned the material available on record with their assistance.

7. It reflects from the perusal of the record that there is no eye-witness of the occurrence. The final medico-legal certificate depicts that no poisonous or intoxicated material was detected from the blood sample of the complainant. No alive or dead sperm germ was found and only bacterial contamination was noted. Hence, I have found the case against the applicant one of further inquiry into his guilt, as envisaged under sub-section (2) of Section 497, Cr. P.C.

Accordingly, the interim pre-arrest bail granted to applicant vide order dated 06.01.2020, is hereby confirmed on the same terms and conditions.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits. In case applicant tries to misuse the concession of bail in any manner, it would be open for the trial Court to cancel his bail after issuing him the requisite notice.



JUDGE

