

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Bail Application No. 1405 of 2014

Dated _____ order with signature of Judge _____

For hearing.


08 September, 2014.

Mr. Umar Farooq Khan, Advocate for
applicant.

Mr. Khadim Hussain, Deputy Prosecutor
General, Sindh a/w DSP Rizwan Shah Bin
Qassim Town and SIP Ghulam Haidar of Police
Station Memon Goth.

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For the reasons to be recorded later, the
bail is granted to the applicant subject to his
furnishing surety in the sum of Rs. 2,00,000/-
(Rupees Two Lac only) and P.R.Bond in the like
amount to the satisfaction of the trial court.


Judge

Aamir


Judge

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Cr. Bail Application No. 1405 of 2014

Date	Order with Signature of the Judge
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Before:

*Mr. Justice Muhammad Shafi Siddiqui &
Mr. Justice Syed Muhammad Farooq Shah*

Date of hearing. : 8th September, 2014.
For Applicant : Mr. Umar Farooq Khan, Advocate.
For the State : Mr. Khadim Hussain, D.P.G.Sindh.

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SYED MUHAMMAD FAROOQ SHAH, J.:- Through the captioned bail application, post-Arrest Bail has been sought by the applicant Muhammad Saleem, booked in FIR No. 125/2014, under section 353,324 PPC, read with section 7, ATA, 1997, registered with Police Station Quaidabad, Karachi, having failed to obtain bail from the trial court.

2. Facts of the prosecution case are that on 01.4.2014 at 1100 hours, the complainant SIP Ch.Fayaz Muhammad registered FIR No. 125/2014, under section 353/324 PPC at Police Station Quaidabad, Karachi, stating therein that he alongwith sub-ordinates were busy in the prevention of the crimes, at about 1100 hours, when they reached at Lala Abad Road, near Mola Madad Graveyard Landhi, Karachi, they found a person in suspicious condition, to whom the police party tried to get off him from the vehicle and to take his search, who on seeing the police party, opened fires upon the police party with intention to kill them. The police party also made firing in their defence. During firing, the accused threw a hand grenade upon police party, which could not explode. Consequently, accused was followed and from his possession a loaded magazine and two live bullets were recovered. On enquiry, he disclosed his name as Muhammad Saleem son of Muhammad Miskeen. Police asked him for license of the pistol, which he failed to produce. On further research, police recovered one mobile phone Nokia without cover, cash amount of Rs. 500/- and his original CNIC, hence present FIR was registered and separate FIR under section 23-A(i) of Sindh Arms Act, 2013 was also registered.

3. Arguments advanced from both sides are considered and record has also carefully been perused.

4. Mr. Umar Farooq representing the applicant argued that the applicant is innocent, has falsely been implicated in this case. It is next contended that weapon secured from the applicant is licensed one; that it is a case of in effective firing as neither any person or vehicle received bullet injury/mark and the weapon was also not sent to Ballistic Expert/FSL report. More-so, no empty bullet allegedly fired by the accused or police have been secured from the place of occurrence. It is further submitted that section 7 of ATA has been applied, malafidely.

5. Conversely, Learned Deputy Prosecutor General, Sindh has conceded the submission of learned counsel for applicant, relating to in-effective firing, non-recovery of the empties from the place of occurrence and forwarding the secured license to the concerned ministry for verification.

6. It is an admitted fact that nobody has received any injury during exchange of firing nor marks of bullets allegedly fired from both sides are found at the place of occurrence or at the police vehicle, more particularly, not a single empty bullet allegedly fired from both sides is secured. Respectable or any inhabitant of the locality was also not examined in the instant case, moreso, section 7 of ATA has also not been applied in the FIR; the alleged grenade did not explode and in all these circumstances, the offence under section 324 PPC or section 7 of ATA are not made out against the applicant, therefore, the allegations call for further inquiry. Consequently, this application was accepted and applicant was released on bail vide short order dated 08.9.2014, on his furnishing surety in the sum of Rs. 200,000/- (Two Lacs only) and PR Bond in the like amount and these are its reasons.

7. Before parting with the order, it needs not to make clarification that the observations recorded above are tentative in nature and relevant for the purpose of this bail application, therefore, the trial court shall not be influenced in any manner whatsoever.


JUDGE


JUDGE