

IN THE HIGH COURT OF SINDH AT KARACHI.
Crl. Bail Application No.917 of 2015

For hearing of Bail Application

03.05.2016

Mr. Saifullah, Advocate for applicant
 Mr. M.R. Sayed, Advocate for complainant
 Ms. Seema Zaidi, A.P.G.
 SI Ch. Amanat Ali, P.S. Gizri

ORDER

Muhammad Iqbal Kalhoro,J. Applicant is accused in crime No. 104 of 2005, registered on 19.04.2005 at Police Station Kalri, Karachi U/s 302 P.P.C.

2. Applicant is not nominated in the FIR, but on the basis of statement of co-accused Saeedul Haque @ Abdullah, he was introduced in the prosecution story and was shown as absconder. Meanwhile trial has proceeded against the arrested co-accused namely Saeedul Haque and Muhammad Arshad, who have been convicted by the trial Court. Applicant was arrested in another crime on 18.03.2014, and was shown arrested in the present case on 26.03.2014.

3. Learned defence counsel has argued that case against the applicant is one of further enquiry, as neither his name appears in the FIR nor any role has been attributed against him. Insofar as conviction of the co-accused is concerned, he states that this is challenged in some appeal.

4. On the other hand, learned counsel for the complainant and learned A.P.G. have opposed the grant of bail to the applicant on the ground that applicant remained absconder for nine years. And he is not entitled for the concession of bail.

5. I have heard both the parties and perused the material available on record. Perusal of FIR shows that applicant is not nominated in the FIR. Applicant was implicated in this case on the

basis of statement of co-accused Saeedul Haque, and he was shown absconder in the challan. It is clear that no specific role has been attributed against the applicant. The conviction of the co-accused would not disentitle the applicant from concession of bail. As regards to the grant of concession of bail, it is well settled principle of law that mere abscondence would not come in the way to grant bail, if otherwise on merits his case requires further enquiry; applicant has earlier filed bail application bearing Cr. B.A. No.1614/2014, which was disposed of with the directions to the trial Court to conclude the trial within two months, it is obvious that within that period, the prosecution could not conclude the case. I am of the view that the case requires further inquiry and applicant is entitled to be grant of bail. Accordingly, applicant is granted bail subject to his furnishing a solvent surety in the sum of Rs.2,00,000/ (Rupees two hundred thousand only) with P.R. bonds in the like amount to be executed to the satisfaction of the trial Court.

JUDGE

Rafiq/P.A.