

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Bail Application No. 1861 of 2017

Date	Order with signature of Judge
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For hearing of bail application.

04.01.2018

Mr. Shab Alam, Advocate for the applicant
Mr. Muhammad Iqbal Awan, APG

Muhammad Iqbal Kalhoro, J:- Through captioned bail application, applicant Syed Hussain Bhai seeks post arrest bail in case Crime No. 286/2017, under Section 436/34 PPC r/w Section 7 ATA 1997, registered at P.S. Shah Faisal Colony, Karachi.

2. Succinctly the facts alleged in the FIR are that the complainant along with his family was outside of his flat No. C-57, 7th Floor, Rafi Star, Shahrah-e-Faisal, Karachi, on 09.09.2017, when at about 2300 hours he received a telephonic call from his neighbor informing him that his said flat was on fire. On receiving such information, he reached there where the neighbors had already extinguished the fire, however, all his expensive household articles were gutted due to fire. He reported such matter on 10.09.2017 at 1300 hours and, in the report, he submitted two cell phone numbers and informed that from these numbers, one unknown person had been pestering him.

3. During investigation, the said cellular phone numbers were found belonging to present accused hence he was arrested on 14.09.2017, and on 25.09.2017, his identification parade was held, in which a watchman of the building identified him to be one of the four (4) accused, who on the day of incident had come in the building and had gone up on the lift. It is further alleged that during investigation the present accused confessed his guilt before the police officials.

4. Learned defence Counsel has submitted that except the evidence of watchman, no other evidence is available against the applicant/accused connecting him with the commission of the present offence. Regarding evidence of the watchman, he submits that he has simply stated that he had seen four accused including the applicant coming and then going up the building on the lift machine.

5. On the other hand, learned DPG has opposed grant of bail on the plea that there is a last seen evidence against the applicant and the phone numbers, which were provided by the Complainant were found belong to the applicant and from these numbers he used to contact the Complainant and his wife, which is sufficient evidence to connect the applicant with the commission of offence.

6. We have considered the submissions of the parties and perused the material available on record.

7. In our view that the case of the applicant/accused is of further inquiry as no direct evidence showing that the present applicant/accused and three unknown accused set the flat of the complainant on fire on the date of occurrence. The statement of watchman that he had seen the present accused alongwith three others on the day of incident coming and going up the building on the lift machine would not *ipso facto* lead to a presumption that the flat of the complainant was put on fire by the applicant and three other accused. Even the chemical examiner's report does not specify the cause of fire in the said flat. The applicant has been able to make out a case for grant of bail. Consequently, this bail application is allowed. The applicant is admitted to bail subject to his furnishing solvent surety in the sum of Rs. 200,000/- (Rupees Two Hundred Thousand only) and PR Bond in the like amount to the satisfaction of trial Court.

The observations made in the order are tentative in nature and shall not affect the case of either party in the trial.

JUDGE

JUDGE

Faisal Mumtaz/P.S.