

IN THE HIGH COURT OF SINDH AT KARACHI
Criminal Bail Application No. 1857 & 2391 of 2024

Present:

**Justice Zafar Ahmed Rajput,
Justice Adnan Iqbal Chaudhry**

Applicant in Cr. B.A. No. 1857 of 2024 : Saad Imran s/o Imran Ali, through Mr. Rashid Mustafa Solangi, advocate

Applicant in Cr. B.A. No. 2391 of 2024 : Jawad Waseem s/o Muhammad Waseem, through M/s. Nadeem Ahmed Khan and Masroor Ahmed Memon, advocates

Complainant : Akbar Anwar s/o Muhammad Arshad Anwar through M/s. Mushtaq Ahmed and Raja Hassan Nawaz advocates

Respondent : The State, through M/s. Anwar Mahar DDPP and Rukhsan, ADPP.

Date of hearing : 10.01.2025
Date of order : 10.01.2025

ORDER

ZAFAR AHMED RAJPUT, J. By this common order, we intend to dispose of above listed both criminal bail applications as the same, being arisen out of Crime/F.I.R. being No. 514/2023, registered under section 365-A, 342, 34 P.P.C. read with section 7 of the Anti-Terrorism Act, 1997 ("**Act of 1997**") at P.S. Darakhshan, Karachi, have been heard by us together.

2. Applicants/accused Saad Imran s/o Imran Ali and Jawad Waseem s/o Muhammad Waseem on being unsuccessful in getting relief of post-arrest bail, vide orders dated 02.08.2024 & 02.10.2024, passed by the Anti-Terrorism Court No. III, Karachi in Bail Applications No. 20 & 28 of 2024, filed in Special Case No. 80 of 2024, through instant Applications seek the same relief from this Court.

3. It is alleged that, on 21.10.2023 at about 2105 hrs., complainant Akbar Anwar left his shop, situated at Zamzama Ward, Phase-V, DHA, Karachi for home in his Toyota Rocco bearing Registration No. LC-3410, with a hand bag containing Rs. 9,00,000/- and GBP 980/-. He reached 26th Street traffic signal,

Phase-VI, DHA, Karachi, where two vehicles i.e. Toyota Fortuner bearing No. GP-7767 and black Rocco with police lights intercepted him. 6/7 armed persons boarded in said vehicles took him out of his vehicle and made him sit in their black Rocco by covering his face with his kameez. They also took his mobile phone and after making him roaming at different places for about two and half hours, they took him to a house, then to an ATM of HBL and withdrew Rs. 7,20,000/-from there; then they withdrew Rs. 1,50,000/- from the ATM of UBL; thereafter at about 0245 hrs., they dropped him at Kababjees, near FTC, Shakra-e-Faisal and drove away. For that, the complainant lodged the aforesaid F.I.R on 24.10.2024.

4. Learned counsel for the applicant Saad Imran has contended that the applicant is innocent and has falsely been implicated in this case; that there is unexplained delay of 3 days in lodging the F.I.R; that the prosecution has no evidence against the applicant to connect him with the alleged offence except that applicant's rented vehicle allegedly used in abduction of the applicant; that the vehicle's description mentioned in the F.I.R. as well as 161, Cr. P.C. statements i.e. *Rocco with police lights with number mentioned* does not match with the description of the vehicle seized by the police under seizure memo dated 14.12.2023 with description KX-2258 Revo; that the applicant has been implicated in this case on the basis of statement of co-accused, which is inadmissible under Articles 38 and 39 of the Qanoon-e-Shahadat Order, 1984; that as per application moved to the SHO, the complainant was in contact with his brother, Babar, on phone but surprisingly his said brother did not inform about the incident even on 15 police helpline; that the applicant and the complainant have long decades old friendship, no incident of his abduction took place at all and the later has managed a false story to teach a lesson to applicant due to some family dispute and personal grudges; that neither in the application moved by the complainant to the SHO on 22.10.2023 nor in the F.I.R. the name of the applicant is mentioned;

that the contents of the said application are contradictory to the facts narrated in the F.I.R.; that neither any direct role assigned to the applicant nor any direct evidence available against him; that there is no description of any of the accused including the applicant in the F.I.R.; that there is dishonest improvement in the statement of complainant recorded under section 161, Cr. P.C with unexplained delay of more than one month; that the evidence managed against the applicant is alleged recovery of some ransom amount i.e. Rs. 10,00,000/- and 130 GBP vide memo of recovery, dated 25.12.2023, whereas the applicant was already in judicial custody since 07.12.2023; that the mother of the applicant was persuaded by the I.O. to arrange the alleged amount for settlement of monetary dispute between the applicant and complainant which she managed and handed over him, who foisted the same on the applicant; that the guilt of applicant requires further enquiry entitling him to the concession of bail.

5. Learned counsel for the applicant Jawad Waseem, while adopting the arguments of learned counsel for applicant Saad Imran, has argued that the alleged incident took place on 21.10.2023 to 22-10-2023 from 09:05 p.m. to 02:24 a.m., while F.I.R. was lodged on 24.10.2023 at 0010 a.m. with delay of 2 days without any explanation, which create serious doubts in the prosecution story; that the identification parade was conducted on 29.11.2023 i.e. with delay of 38 days, while the complainant and I.O. have not mentioned the source of information and the connection of the applicant with the alleged offence; that the F.I.R. is self-contradicted as the complainant has alleged in the F.I.R. that 6/7 persons laid down from the vehicles and forcibly boarded him in a vehicle, while he lodged the F.I.R. against 8/10 unknown person, which also creates serious doubt in the prosecution story; that the applicant has no connectivity with the alleged offence; that the alleged recovered amount of Rs. 20,000/- from the applicant, after 35 days of lodgment of F.I.R., has in fact been foisted upon him by the police; that the case of the applicant falls within the ambit of section 497

(1), Cr. P.C. wherein the bail is rule and refusal an exception; that the applicant is neither previously convicted nor having any criminal record against him; that the applicant is behind the bars for last 11 months and the trial has not been concluded; as such, he is entitled to the concession of bail.

6. On the other hand, learned counsel for the complainant and learned DDPP have opposed the instant applications on the ground that the F.I.R. was lodged against unknown person and prosecution has no motive to implicate the applicants falsely in the case; that the prosecution has sufficient evidence against the applicants to connect them with the commission of alleged offence; hence, they are not entitled to concession of bail.

7. Heard. Record perused.

8. It appears from perusal of the record that after the alleged incident, the complainant came to know that as per CCTV footage two vehicles used in commission of the alleged offence were identical which were in use of his friend/applicant Saad Imran, which he had taken from a rent-a-car and then he, alongwith co-accused, in furtherance of their common intention, abducted the complainant and they received Rs.23,00,000/- as ransom. It further appears that during course of investigation the I.O. called Asghar Ali of rent-a-car, who submitted his statement in English language, stating therein that he met with applicant Saad Imran through Ahsan and Rahim; on 25.09.2023, he gave Revo KX-2258 on rent at the rate of Rs. 10,000/- per day to Saad Imran, who disclosed that he belonged to MI and ISI and then, on 21.10.2023, he gave Fortuner BJ-2648 for one day at Rs.13,000/- to him. On 19.11.2023, CTD Civil Line arrested co-accused Mohsin, Jawad Waseem (*Applicant*) and Muhammad Raza in Crime No. 183/2023. During course of interrogation, accused Mohsin disclosed that applicant Saad Imran is his master (Seth), who alongwith his friends Muhammad Ali, Shahrukh, Jawad Waseem, Muhammad Raza and Tayyab, on 17.10.2023,

made a plan to abduct complainant for ransom then, on 21.10.2023, they abducted him and released him after taking ransom amount. It further appears from the record that the complainant identified the accused persons in identification test. On 14.11.2023 police recovered vehicles used in commission of alleged offence. Police have also recovered ransom amount from accused persons as stated above. Perusal of the record further shows that the applicant Saad Imran has friendship with the complainant for many years; however, he has failed to bring on record anything showing that he has been implicated in this case due to any family dispute as claimed by him. Hence, prima facie there appears no reason for false implication of the applicants by the complainant in this case. So far, the alleged delay in recording of F.I.R. is concerned, suffice is to say that the delay in lodging F.I.R. *ipso facto* is no ground for the grant of bail to an applicant.

9. From the tentative assessment of the evidence on record, it appears that *prima facie* prosecution has sufficient material against the applicants to connect them with the commission of alleged offence carrying punishment under section 365-A, PPC read with section 7 of the Act of 1997 with death or imprisonment for life, which falls within prohibitory clause of section 497, Cr. P.C. No case for granting bail to applicants on the ground of further inquiry has been made out. Every hypothetical question which could be imagined would not make it a case of further enquiry simply for the reason that it could be answered by the trial Court subsequently after evaluation of evidence. Their claim with regard to false implication is an issue that cannot be attended without going beyond the scope of tentative assessment, an attempt prohibited by law.

10. As a result of above discussion, both the instant criminal bail applications are rejected leaving the applicants at liberty to repeat the same before the Trial

Court in case fresh grounds are available to them after examination of complainant and PW Ali Asghar.

11. Needless to mention that the above observations are tentative in nature for the disposal of these bail applications and shall not influence the Trial Court while deciding the case of the applicants on merits.

12. Above are the reasons of our short order, dated 10.01.2025, whereby both the instant applications were dismissed.

JUDGE

JUDGE

Athar Zai