

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI
Cr. Bail Application No.2311 of 2023

Date	Order with Signature of Judge
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For hearing of Bail Application

01.04.2024.

Mr. Tahir Akram Awan, Advocate along with Applicant.
Mr. Mumtaz Ali Shah, Addl. Prosecutor General Sindh.
Mr. Haseebullah Panhwar, Advocate for Complainant.

Muhammad Karim Khan Agha, J. The applicant has been booked in crime No.363 of 2023 u/s.382/34 PPC registered at PS Jamshed Quarters, Karachi and he is facing trial before the XIIIth Additional Sessions Judge (East) Karachi. He applied for pre-arrest bail before the XIIIth Additional Sessions Judge (East) Karachi which was declined vide order dated 07.10.2023. Hence the applicant has approached this Court for pre-arrest bail.

2. Brief facts of the case are that the complainant is a driver who used to delivers coal. On 20.08.2023 the complainant had loaded the coal worth Rs.3,00,000/- which he was to supply his customer. The Complainant when on his route to deliver the coal applicant and co-accused Shakar stopped him and co-accused Shakar started beating the complainant and told him to turn the truck into the Yadgar Fish Street where the applicant was also on his motorcycle. The complainant told them that he would not deliver the coal to anywhere else except as he was directed by his owner. The truck was stopped at the place of co-accused Shakar and told him to unload the coal there and ultimately the applicant and co-accused snatched the coal from the truck and ran away. Hence the aforesaid FIR was lodged against the applicant and co-accused.

3. I have heard the learned counsel for the parties and perused the record.

4. At the very outset it is noted that the offence under which the applicant has been charged carries maximum sentence upto 10 years in jail and in such likes cases the general rule is that bail should be granted unless exceptional circumstance exists which

justify the refusal of bail. In this case no exceptional circumstance is made out. The charge has been framed, however, the report of the trial Court reveals that on the last 06 dates of hearing the complainant and PWs have been called absent and even BWs have been issued to ensure their presence to record their evidence which shows that the complainant has little interest in pursuing the trial and is in fact deliberately delaying the trial. It is noted that the applicant has crippled hand and the value of the stolen coal is relatively minor being Rs.3,00,000/. The applicant is longer required for investigation. It is also noted that the co-accused Shakar has already been granted bail by the VIII-Additional Sessions Judge (East) Karachi on 05.09.2023. On examination of FIR it appears that the role of the applicant and co-accused Shakat is almost identical and on the rule of consistency applicant is entitled to equal treatment along with his co-accused Shakar.

5. As such based on the above discussion and in particular rule of consistency I hereby confirm the pre-arrest bail granted earlier to the applicant **Sudhir Khan son of Nabi Gul Khan** on the same terms and conditions.

6. This order is based only on a tentative assessment of the evidence and the learned trial Court shall proceed to decide the case on merits expeditiously. Copy of this order shall be sent to XIIIth Additional Sessions Judge Karachi for compliance.

7. The instant criminal bail application stands disposed of in the above terms.

JUDGE