

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Cr. Bail Appl. No.2763 of 2023

Date

Order with signature of Judges

For hearing of bail application.

17.01.2024.

Ms. Lubna A. Abbasi advocate along with applicant.

Mr. Saleem Akhtar Buriro, Addl. Prosecutor General Sindh.

Mohammad Karim Khan Agha, J. Applicant Mst. Naila Sadaf is facing trial in the Consumer Protection (East) Karachi in respect of FIR No.874 of 2023 under Section 380/457/454 PPC registered at PS Shahra-e-Faisal, Karachi. She applied for pre-arrest bail before the XIIIth Additional Sessions Judge Karachi-East which was declined vide order dated 27.11.2023. Hence, she has approached this Court for her pre-arrest bail.

2. Brief facts of the case as per FIR are that the sister of complainant became unwell and the complainant kept his sister at his residence after she was released from the hospital. During the recuperation of complainant's sister, applicant was sent to the residence of the complainant from National Liaquat Hospital to look-after his sister. Allegedly the applicant stole money from the Almirah of the complainant amounting to Rs.15,00,000/- lac, one and half tola gold and golden ornaments belonging to the sister of the complainant. Hence the aforesaid FIR was lodged against the applicant for the above mentioned offence on the basis of suspicion of the applicant and one other and also against unknown persons.

3. I have heard the learned counsel for the applicant and learned Addl. Prosecutor General Sindh. Learned counsel for the complainant is called absent without intimation.

4. Form the record it transpired that apart from the applicant, other nurse was also available in the house as well as at least two other servants who were also working in the house all of whom knew where money and jewelry of the sister of the complainant were available/placed. No recovery has

been made from the applicant. When the matter was challoned, it is stated that there was insufficient evidence to proceed against the applicant but nevertheless the concerned trial Court take cognizance of the case.

5. Although the Section 457/454 PPC have been cited in the FIR along with Section 380. It appears that only section 380 PPC is applicable to the applicant as this is not a case of trespass. Even otherwise section 380 PPC carries maximum sentence of 07 years in jail and in such like case general rule is that the bail should be granted unless exceptional circumstances exist. In this case I find that no exceptional circumstances exist. This is clearly a case of further inquiry.

6. Based on the above discussion, I find that the applicant has made out a case for pre-arrest bail as such her pre-arrest bail granted by this Court on 06.12.2023 is confirmed on the same terms and conditions. This order is based only on a tentative assessment of the evidence and the learned trial Court shall proceed and decide the same on merits within three (03) months of the date of this order. Copy of this order shall be sent to Additional Sessions Judge-XIIIth (East) Karachi for compliance.

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

JUDGE