

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.1961 of 2014

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

- 1) For orders on M.A. No.9517/2014
- 2) For hearing

15.06.2015

Mr. Muhammad Aslam Khan, Advocate for Applicant
Mr. Muhammad Iqbal Awan, A.P.G.
Mr. Abdul Samad Baloch, Advocate for Complainant

Applicant/accused Rizwan alias Bhonda son of Marghoob Ali seeks post arrest bail in FIR No.374/2011, registered at P.S. Jamshed Quarters, Karachi under sections 392/302/34 PPC.

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

Learned counsel for the applicant argued that this is a blind FIR, T.T. pistol has allegedly been recovered from the possession of the applicant/accused at the time of his arrest but despite lapse of a considerable time the same has not been sent for FSL report and no explanation in this regard has ever been offered by the prosecution. He further argued that prosecution has recovered three empties of TT pistol but the same have also not been sent for chemical report. He contended that prosecution case is full of doubt and case of the applicant/accused fall within the ambit of Section 497(2) Cr.PC. Learned counsel lastly argued that applicant/accused is in custody since 15th November 2011 but despite lapse of about four years, not a single witness has been examined by the prosecution, as such, on the ground of statutory delay, the applicant/accused is also entitled for concession of bail.

Learned A.P.G., assisted by the counsel for the complainant excepting saying that the complainant has been murdered, therefore, no bail can be granted to the applicant/accused, learned prosecutor has not been able to controvert the claim of accused that since last four years case

has been delayed and the delay is not attributable to the applicant/accused. Learned APG has submitted criminal record of applicant, in which he was shown arrested in three cases. Learned counsel for the applicant placed on record copies of orders of the trial Court dated 08.10.2012 and 26.12.2012, whereby the applicant was acquitted in Crime Nos.331/2011 and 332 of 2011 of P.S. SIU, CIA, Karachi.

I am inclined to grant bail to the applicant/accused Rizwan alias Bhonda on the ground that there is a statutory delay, as the applicant/accused was arrested on 15th November 2011 but despite lapse of more than 3 ½ years, not a single witness has been examined by the prosecution and such delay has not been attributed to the present applicant/accused, therefore, the accused is admitted to bail, subject to his furnishing solvent surety in the sum of Rs.300,000/- (Rupees Three Hundred Thousand) and P.R. bond to the satisfaction of the trial Court.

Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant/accused on merits.

JUDGE

Gulsber/PA