

04-02-2023

Accused Sheikh Rasheed in custody
Mr. Ashiq Shah Inspector, I.O with record
Mr. Adnan Ali, Learned DDP for State, and Mr. Tahir
Kazim, Law Officer
M/s Sardar Abdul Raziq, Intezar Hussain Panjutha,
and Naeem Haider Panjutha, Advocates for the
accused

ORDER

1. There are three applications before the court:
 - i. Request for physical remand by the I.O.
 - ii. Application for provision of security and life protection moved on behalf of accused
 - iii. Application for deletion of offences moved on behalf of accused
2. For purposes of comprehension, the court will decide these application in seriatim:

I. REQUEST FOR GRANT OF PHYSICAL REMAND BY THE I.O.

3. The gist of FIR and objections with respect to the very legality of initiation of proceedings by prosecution have already been discussed and decided by the court in its previous order dated 02.02.2023, thus, it need not be recapitulated.

REQUEST OF I.O.

4. The I.O. has moved the application for grant of further physical remand of 5 days, inter-alia on grounds that during 2 days remand, voice matching test has already been conducted, and his medical parcels have also been sent to PFSA Lahore however, evidence with respect to conspiracy is yet to be extracted from the accused, and he has to be taken to Lahore for his photogrammetry test.

OBJECTIONS OF ACCUSED

5. While appearing in the court today, the accused out-rightly stated that from 3:00 am last night since today morning, he was roped on a chair, hence his hands and feet are bleeding, therefore, he be sent to the hospital for necessary treatment.

justified, however, he is in custody of the police and they are duty bound to provide any medical treatment, if need be.

9. Now moving on to the request of I.O. two days physical remand was granted by this court vide order dated 02.02.2023, for voice matching photogrammetry test and investigation with regard to the alleged information regarding criminal conspiracy, and today the I.O. has apprised the court that voice matching test has already been conducted, whereas, accused could not be taken to Lahore for photogrammetry test due to paucity of time, and the accused has not disclosed any information about the alleged conspiracy. The plea that accused could not be taken to Lahore due to paucity of time is lame to say the least, as the I.O. had complete day of 03.02.2023, to take the accused to Lahore for the said photogrammetry test. Then, the accused has been brought before court today at almost at 2.40 pm today, thus, the investigation officer has even utilized entire day today, therefore, he had sufficient time to take the accused to Lahore for the said photogrammetry test, but he has shown laziness, and now the court cannot grant him further time at the cost of liberty of the accused. Thus, request for grant of further physical remand for photogrammetry test is not justified. As regard the request of grant of physical remand for the purposes of investigation viz-a-viz information about alleged conspiracy, it is suffice that accused is in the custody of I.O. for last three days, which was sufficient time to investigate regarding the conspiracy, but no progress has been shown in this regard, thus, further physical remand only to extract any such information is also not justified.

10. The above discussion leads to a safe conclusion that I.O. has not shown sufficient reasons for grant of further physical remand, thus grant of further physical remand would be against the principles settled by Honorable Lahore High Court, Lahore in its judgment rendered in case titled as "Ghulam Sarwar and another versus The State", reported as 1984 PCrLJ 2588, and the esteemed judgment of Honorable Islamabad High Court, Islamabad, graciously handed down in case titled as "The State through Advocate General ICT, versus Additional Sessions Judge and 2 others", reported as 2023 PCr. LJ 83.

11. As a necessary corollary to above discussion, request for grant of further physical remand stands turned down, Accused be sent to judicial custody, and be produced before the court again on 18.02.2023. Apropos the arguments of learned counsels for the accused with respect to the very legality of proceedings and registration of FIR, the court deems it sufficient to observe that all such objections have been addressed in detail in the order of first remand dated 02.02.2023, thus, the discussion upon such arguments is unnecessary.

II. APPLICATION FOR PROVISION OF SECURITY AND LIFE PROTECTION

12. The accused has moved this application for provision of security and life protection submitting therein that he has life threats from Mr. Asif Ali Zardari, Mr. Bilawal Zardari, Mr. Nawaz Sharif, Mr. Shahbaz Sharif and Rana Sanallah, and different FIRs have been registered against him in other provinces, whereas, I.G. Sindh, Home Secretary Sindh, and Home Secretary Punjab are close aids of the above named individuals, hence, I.G. Sindh, Home Secretary Sindh, and Home Secretary Punjab, be summoned and they be directed to submit guarantee of the life protection of accused, while the legal proceedings be initiated against the above named individuals.

13. Arguments heard; record perused.

14. It is germane that during the course of physical remand, the security and safety of the accused is the responsibility of the I.O. to whom the court has granted custody, and if sent to judicial custody, the concerned authorities of Jail are responsible for the safety and security of the accused, hence, further directions in this regard are unnecessary, that too on mere apprehensions of the accused. Moreover, if he has apprehensions from certain individuals then he is free to adopt due course of law.

15. Consequently, the application stands dismissed being without force.

III. APPLICATION FOR ADDITION AND DELETION OF OFFENCES

16. The accused has moved the application for addition and deletion of offences, inter-alia on grounds that FIR is totally false and offences levelled in the FIR do not attract, thus, this court has ample powers to add or delete the offences, and such powers may be exercised in the interest of justice.

17. I have heard learned counsel for the accused, however, all such arguments were advanced by the learned counsel at the stage of grant of first remand, and the court granted the remand while disagreeing with such arguments, thus, further observations in this regard are unnecessary at this stage. However, the accused can agitate these points at the stage of framing of charge, when the court will have sufficient material in the shape of report under Section 173 Cr. PC, and it will be in a better position to give any findings. Thus, the application stands dismissed being without force.

Announced
04-02-2023


OMER SHABIB
JUDICIAL MAGISTRATE SECTION 30
ISLAMABAD-WEST