

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**  
Cr. Bail Application No.S-1405 of 2014  
Cr. Bail Application No.S-170 of 2015

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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*FOR HEARING.*

**13.09.2017.**

*Mr. Waqar Ahmed Memon, Advocate for applicant Jawaaid  
in Criminal Bail Application No.S-1405 of 2014*

*Mr. Mehmood Alam Abbasi, Advocate for applicant Muhammad Nadeem  
in Criminal Bail Application No.S-170 of 2015*

*Mr. Shahid Ahmed Shaikh, D.P.G*

*None present for the complainant.*

**ORDER**

**ABDUL MALIK GADDI, J:-** By this order, I intend to dispose of the above two bail applications as they arise out of the same FIR.

2. Through these bail applications, applicants seek bail in Crime No.166 of 2014 registered at P.S Naseem Nagar, Hyderabad, for offence under Section 392 PPC.

3. Applicants/accused *Jawaaid and Muhammad Nadeem* were granted interim pre-arrest bail by this Court vide orders dated 24.12.2014 and 13.02.2015 respectively and today these bail applications are fixed for confirmation or otherwise.

4. Brief facts of the prosecution case as disclosed in the FIR lodged by the complainant Qamaruddin are that the complainant retired Assistant Commissioner Revenue, Hyderabad. On 19.08.2014 at 1430 hours he alongwith his wife Dr. Rabia Rajper and servant Bahadur Lakho and his wife were available in the house. In the meanwhile, bell rang on which his servant saw from window two persons were standing alongwith motorcycle, out of them one person asked him that they are WAPDA employees and Qamar Sahab talked about meter then servant came and disclosed on which complainant went

outside and one person asked the complainant that there is problem in his meter whereupon complainant stated that he has not received meter then both persons pushed the complainant, entered in the house, took out pistol and kept the same upon complainant and asked him to remain silent and close the door. Out of them one person took out Rs.11500/- from the pocket of complainant and on the source of weapon took away him in the room and got awakened his wife and also took away his servant in the room and forcibly took keys of Almirah, opened the same and took out Rs.200,000/- cash, two mobiles phones, digital camera and also took one licensed pistol bearing No.102241 30 bore and also snatched two gold ear rings, one gold chain and two rings and also took out two small gold set and two mobile phones and suddenly the sugar of complainant was low and he became unconscious and when complainant regain his senses he found himself in the Hilal Ahmer Hospital Unit No.2 Latifabad, where his wife disclosed him that two unknown persons took away the articles, hence the present FIR.

5. Learned Counsel for applicant/accused Muhammad Nadeem stated that applicant/accused Muhammad Nadeem is innocent and he has been falsely involved in this crime by the complainant. He further contends that name of the applicant/accused is not mentioned in the FIR and that the FIR has been lodged by delay of one day for which no plausible explanation has been furnished by the complainant. He further submits that nothing was recovered from the possession of the applicant/accused and the applicant/accused is appearing before this Court as well as Trial Court regularly to face the trial. He also submits that no specific role has been assigned to the applicant/accused.

6. Learned Counsel for applicant/accused Jawaid also submits that the applicant/accused Jawaid is innocent and he has been falsely involved in this crime by the complainant. He further submits that the FIR is delayed by one day for which no explanation has been furnished by the complainant. He further submits that the name of the applicant/accused does not appear in the FIR and the only evidence against the applicant/accused Jawaid is that he was arrested on 16.09.2014 and was put in the identification parade after the delay of 04 days for which no explanation has been furnished, however, according to learned Counsel the identification parade of the applicant/accused is delayed by 04 days which has no sanctity. It has further been submitted that the matter is pending before the Trial Court and only one witness has yet been examined and

according to learned Counsel, if this bail application is dismissed, no fruitful purpose would be achieved.

7. Learned Deputy Prosecutor General has opposed these bail applications on the ground that the applicants/accused are involved in the commission of the offence, which has been occurred in the house of the complainant and the incident has been witnessed by the wife of the complainant and the complainant himself. He further submits that the applicants/accused are involved in this case which is one of serious and heinous in nature, therefore, they are not entitled for grant of bail.

8. I have given my anxious thoughts to the contentions raised at bar and have gone through the case papers so available before me.

9. It is an admitted fact that the alleged incident took place on 19.08.2014 at 1430 hours but the FIR was registered on 20.08.2014 at 1700 hours and apparently there is delay of one day in lodging of FIR for which no satisfactory explanation has been furnished, therefore, false implication of the applicants/accused in this case with due deliberation and consultation cannot be ruled out and this fact could only be determined by the Trial Court at the time of evidence. Furthermore, the FIR does not show the names of the applicants/accused and that no recovery has been effected from the possession of the applicants/accused. The whole case of the prosecution rests upon the evidence of the complainant Qamaruddin Memon as well as his wife. No witness from the locality has been cited in this case to confirm the factum of the alleged incident. So far as, the allegation against accused Jawaid is concerned, his name has not appeared in the FIR but there is evidence against him that he was arrested on 16.09.2014 and was put into identification parade on 20.09.2014 after the delay of 04 days for which no plausible explanation has been furnished, therefore, delay in identification parade in this case also requires further probe, whether the same has been conducted in accordance with law or otherwise. It is submitted that the challan against the applicants/accused has been submitted and they are no more required for the purpose of investigation. It also appears from the record that the applicants/accused are appearing before this Court as well as Trial Court regularly. It is stated by learned Counsel for the applicants/accused that only one witness has been examined by the Trial Court. The matter pertains to the year 2014 and it is not confirmed as to when the trial would be concluded and under these

circumstances if these bail applications are rejected and the applicants/accused are sent to jail then no fruitful purpose would be achieved.

10. In view of the above facts and circumstances, I have come to the conclusion that the applicants/accused have made out the case for their confirmation of bail. Accordingly, interim pre-arrest bail already extended in favour of the applicants/accused is hereby confirmed on the same terms and conditions with direction to the applicants/accused to appear before the Trial Court to face the trial. Since the case pertains to the year 2014 and only one witness has been examined upto date, therefore, under such circumstances the Trial Court is directed to expeditiously proceed with the case and decide the same preferably within a period of 03(three) months and no un-necessary adjournment shall be granted to either side. Since it is the case of robbery, therefore, during the trial in case if the applicants/accused misuse the concession of bail, the complainant party shall be at liberty to move an application for cancellation of bail of the applicants/accused before the Trial Court and the Trial Court shall then decide the same in accordance with law.

11. Needless to mention that the observations made in this bail order are tentative in nature and shall not in any way affect the merits of the case at the trial.

Bail applications stand disposed of.

JUDGE

Shahid