

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.
Cr.Bail Appln:No.S- 629 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing.

03-10-2017

Applicant is present on interim bail.

Mr. Maqsood Ahmed Malik, advocate for applicant.

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

None present for complainant.

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ABDUL MAALIK GADDI,J- Through instant bail application applicant seeks pre-arrest bail in Crime No.189 of 2017 under Section 395 PPC, registered at police station A-Section Shaheed Benazirabad. Earlier his bail application has been dismissed by learned Ist Additional Sessions Judge, Shaheed Benazirabad vide order dated 03.07.2017. Today this bail application is fixed for confirmation or otherwise.

2. The allegation against the applicant/accused is that on the day and time of the incident the present applicant alongwith co-accused Muhammad Iqbal and Jawaaid Iqbal snatched / robbed motorcycle viz. bearing No.AFR Supper Star model 2017 from the complainant which was subsequently recovered from the house of the applicant on the pointation of the applicant. Hence, this FIR.

3. It is stated by learned counsel for the applicant that no overt act or specific role is attributed to the applicant/accused and there are general allegations leveled against him; that complainant roped the applicant/accused in collusion with his friend Najam-ul-Hassan as well as police, due to dispute over money matters. The alleged recovery of motorcycle has been foisted upon the applicant/accused; that after departure of accused neither complainant nor his PWs informed the police regarding the incident, but they remained silent. Moreover, all male members of one and same family viz. father and two sons involved in this false case by the complainant with ulterior motives. He lastly urged that all these facts make the case of applicant/accused one of further enquiry and prays for confirmation of bail.

4. Conversely, D.P.G opposed this bail application on the ground that name of the applicant is appearing in the FIR with specific allegation that this applicant alongwith co-accused robbed motorcycle from complainant which was subsequently recovered from the house of applicant..

5. Arguments heard and record perused.

6. No doubt the name of the applicant is appearing in FIR, but the mashirnama of recovery indicates that mashirs are related to the complainant. No independent person of the locality has been cited as witness in the matter. It appears from the record that co-accused Muhammad Iqbal who is father of applicant and Jawaid Iqbal who is real brother of applicant have been granted bail by the trial Court and the case of the applicant is almost on the same footing, therefore following rule of consistency this applicant is also entitled for the same concession. It is pertinent to mention here that, whereas as stated in this case that co-accused namely Muhammad Iqbal is father of applicant while co-accused Jawaid Iqbal is real brother, hence it is surprising that a father incollusion with his real sons committed dacoity / robbery, hence, this fact also requires deeper appreciation at the stage of trial. Notwithstanding, in this matter the investigation has been completed and challan against applicant/accused has already been submitted, hence, the applicant/accused is no more required for further investigation. No exceptional circumstances has been pointed out by D.P.G in this case to withhold bail to applicant. I, therefore, in view of the above allow this bail application and confirmed the interim pre-arrest bail in favour of applicant passed earlier on same terms and conditions with directions to the applicant/accused to appear before the trial court to face trial.

7. Needless to mention here that the observations made hereinabove are tentative in nature and shall not affect the merits of the case.

JUDGE

Since in this matter a short point is involved, therefore trial court is directed to proceed this matter expeditiously and decide the same preferably within three months after receipt of this order. Compliance report be submitted to this Court through Additional Registrar of this Court.