

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No.40 of 2019

Date	Order with signature of Judge
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For hearing of bail application.

18.02.2019

Mr. Muhammad Hanif Khan, advocate for the applicant.
Ms. Rahat Ahsan, Additional P.G.

NAZAR AKBAR, J. The applicant is facing trial in Crime/FIR No.163/2018 under Sections 392/34 PPC registered at P.S. Sahil, Karachi. The applicant after failing to obtain post arrest bail from the Court of II-Additional District and Sessions Judge, South Karachi, preferred this bail application.

2. Brief facts of the case as spelt out from the FIR are that on **14.09.2018** at about 1300 hours complainant Zahid Hussain was selling Ice Cream on his motorcycle, when he was selling ice cream to a family, suddenly two young boys wearing Shalwar Kameez came there on motorcycle and they both pointed pistol upon them directing to handover what they had. The culprits snatched his original CNIC and cash of Rs.500/- and one mobile phone and some cash from the said family. In the meanwhile, he with the hop help of said family captured both of them but during scuffle one of them succeeded to flee away on motorcycle and in the meantime, police mobile headed by ASIP Altaf came there, therefore, said culprit was handed over to them, who on enquiry disclosed his name to be Imran son of Faiz (the present applicant) and also disclosed name of his companion as Arsalan son of not known. On his personal search, one 30 bore pistol loaded with a

magazine having four live rounds was also secured from his possession, thereafter accused was brought to police station and FIR was lodged.

3. The counsel for applicant contended that the applicant/ accused is innocent and has been falsely implicated by the police with malafide intention and ulterior motives. He further contended that no specified role has been assigned to the applicant and no robbed article was recovered from his possession. He argued that no private witness of incident was associated in arrest/recovery proceedings except the complainant. He further argued that the offence does not fall within the prohibitory clause of Section 497(2) Cr.P.C. He lastly prayed for grant of bail to the applicant/accused.

4. Conversely, Ms. Amna Ansari, D.P.G for the State has opposed the bail application.

5. I have considered the arguments advanced by the counsel for the parties and examined the contents of FIR and challan. I have noted from the record as follows:-

- (i) In the FIR it is alleged that the applicant has looted the complainant and his customers/family but they were not associated as witness of the incident which makes the case doubtful;
- (ii) It was a day time incident took place in a thickly populated area but no independent eye witness has been mentioned in the FIR;
- (iii) No robbed article has been recovered from the possession of the applicant.
- (iv) The witnesses cited in the challan are all police officials;
- (v) The applicant is behind the bars since the date of his arrest i.e 14.09.2018.

6. The above grounds are enough to admit the applicant/accused on bail, consequently, instant bail application is allowed. The applicant Imran son of Faiz is admitted to bail subject to furnishing solvent surety in sum of **Rs.50,000/-** (Rupees Fifty thousand only) and PR bond in the like amount to the satisfaction of the learned trial Court.

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

JUDGE

Ayaz Gul