

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
Cr. Bail Application No.341 of 2019

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DATE            ORDER WITH SIGNATURE(S) OF JUDGE(S)  
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For hearing of bail application \_\_\_\_\_

**08.04.2019**

Ms. Shaista Gul, advocate for the applicant.  
Ms. Rahat Ahsan, Addl.P.G. Sindh.

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1.     The applicant/accused Bilal Ahmed Khan son of Gul Khan, through instant bail application seeks bail after arrest in **FIR No.51/2016**, under **Section 395 PPC**, registered at police station Baloch Colony, Karachi. Earlier the applicant/accused had approached the Court of learned Additional Sessions Judge-VIIIth (South) Karachi for post arrest bail, which was declined vide order dated **04.01.2019** on believing the contention raised by the learned counsel for the State before the trial Court. Thereafter, the applicant/accused approached this Court for grant of post arrest bail.

2.     Brief facts of the prosecution case are that complainant namely Muhammad Imran son of Faiz Ahmed, stated that adjacent to my house I have Rashan Shop in the name and style of Awami Store, on 17.3.2016 at about 02:45 p.m I along with my other servants was working in my store, all of sudden two young age boys entered into my store, as soon as they came they pointed their weapons and asked to keep quite meanwhile their three companions came, who made us stand at a side and started looting in the store, these 05 accused persons remained in store for 8/10 minutes, thereafter on three motorcycles these five accused persons fled away, after

their leaving, checked the goods and found that three mobile phones one Apple Mobile 358374060659122, Samsung 6-A/O, third Nokia 230, cash amount Rs.4,30,000/- were missing, which were looting by the accused persons, the ages of all five accused persons were between 22/28 years, from their talking they were seems to be Urdu speaking, three were with open faces and two were wearing helmets, but their faces were also seen, now I came to lodge report, my claim is against 5 identifiable accused persons, who looted mobile phones and cash from my store, take legal action.

3. Learned counsel for the applicant contended that not a single robbed article has been recovered from the accused till date and the cases mentioned in the charge sheet showing involvement of the applicant/accused arising out of FIR Nos.200/2016 & 201/2016 were also false as he has already filed been acquitted and released orders in the said two FIRs are annexed with application. The accused/applicant is said to be involved in one more FIR No.77/2016, in which the accused has also obtained bail by VIth Addl. Sessions Judge (Central) Karachi, however, only due to pendency of this case surety has not been furnished. Learned counsel has also contended that there was no identification parade on illegally arrest of the applicant. The contention of the learned counsel is that applicant/accused has been repeatedly arrested by the police for personal enmity. Learned counsel for the applicant has replied on the following case laws:-

i. *Qurban Ali ..Vs.. The State* (2017 SCMR 279)

ii. *Akhtar Ali Ghowada ..Vs.. The State* (2015 MLD 1661)

4. Learned Addl. P.G opposed the bail application contending that applicant / accused is habitual offender, he has been involved in other cases. However, she has not disputed that accused has been acquitted in two cases and in third one he is on bail. She has also contended that the prosecution evidence include CCTV footage.

5. I have heard the arguments and perused the record and I have noticed as under:-

- i. The police paper does not show any recovery from the accused till date.
- ii. The accused is behind the bar since 34 months, record shows that he has been arrested for one or the other cases.
- iii. In two cases accused/applicant has already been acquitted and for the last 34 months he is in custody;
- iv. He is no more required for further investigation; therefore, no useful purpose would be served by keeping the applicant behind the bars for indefinite period.
- v. In the two cases cited by learned counsel both the objections raised by learned Addl. P.G to the grant of bail have been answered in favour of applicants.

6. In view of the above facts and circumstances of the case, applicant/accused has made out a case for bail, therefore, the applicant Bilal Ahmed Khan of Gul Khan, is admitted to bail subject to furnishing solvent surety in the sum of **Rs.1,00,000/-** and P.R bond in the like amount to the satisfaction of trial Court.

7. 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.

*SM*

JUDGE