

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Cr.B.A.No.S-398 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
	For orders on office objection. For hearing of main case.

05.08.2018.

Mr. Riaz Ali Panhwar, Advocate for applicant.
Ms. Safa Hisbani, A.P.G for the State.
Mr. Anwar-ul-Hassan, Advocate for the complainant.

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Irshad Ali Shah J;- It is alleged that the applicant with rest of the culprits being armed with deadly weapons by committing trespass into the house of complainant Muhammad Ismail after keeping him and his witnesses under fear of death robbed them of their belongings as are detailed in FIR, for that, present case was registered.

2. The applicant on having been refused post arrest bail by learned VIII-Additional Sessions Judge, Hyderabad has sought for the same from this court by way of instant application under section 497 Cr.P.C.

3. It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case falsely by the police at the instance of his enemies; the identification of the applicant was hallow formality and recovery of mobile phone and

gold ring from him is nothing but foistation and the applicant is in custody for about six months. By contending so, he sought for release of the applicant on bail on the point of further inquiry. In support of his contention, he relied upon case of ***ABID @ AABI ARAIN V. STATE (2016 P.Cr.L.J.Note-109)***.

4. Learned A.P.G. for the State and learned counsel for the complainant have opposed to the grant of bail to the applicant by contending that he has actively participated in the commission of incident and on arrest he has been identified by the complainant party and from him has been secured robbed mobile phone and ring. In support of their contention, they have relied upon case of ***MUHAMMAD ASHRAF KHAN TAREEN v. STATE (1996 SCMR 1747)***.

5. I have considered the above arguments and perused the record.

6. Name and description of the applicant are not appearing in the FIR. The identity of the applicant on the light of bulb is appearing to be a weak piece of evidence. No plausible explanation is offered by the prosecution for recording 161 Cr.P.C. statements of PWs with delay of about three days. The applicant has been subjected to identification parade through the complainant party on 10th day of his actual arrest by the police

through an encounter, which appears to be significant. The mobile phone and ring allegedly robbed and recovered from the applicant are easily available in the market. The applicant had been custody for about six months without active progress in his case. In these circumstances, guilt of the applicant obviously is calling for further inquiry.

7. The case law which is relied upon by learned A.P.G. for the State and learned counsel for the complainant is on distinguishable facts and circumstances. It was a judgment in a murder case on appeal. In the instant matter, no judgment is impugned before this court in murder case.

8. In view of facts and reasons discussed above, by relying upon the case law which is referred by the learned counsel for the applicant, the applicant is admitted to bail subject to his furnishing solvent surety in the sum Rs.50,000/-(rupees fifty thousand) and PR bond in the like amount, to the satisfaction of the learned trial Court.

The instant bail application is disposed of accordingly.

JUDGE.