

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Criminal Bail Application No. 896 of 2018

Date	Order with Signature of the Judge
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For hearing of bail application.

Heard on : 02nd August, 2018
 Decided on : 02nd August, 2018
 For Applicant : Mr. Taj Fareen, Advocate a/w applicant.
 For State : Mr. Sagheer Abbasi, APG a/w complainant.

Kausar Sultana Hussain, J.:- This bail application is filed on behalf of applicant/accused Haji Habib-ur-Rehman under Section 498 Cr.P.C, in case FIR No. 198 of 2018, Police Station Peer Abad, Karachi West, for offence under Sections 454, 380, 365/34 PPC. Initially applicant/accused was allowed interim pre-arrest bail by the Court of VIIIth Additional Sessions Judge, Karachi West, which was subsequently recalled by order dated 25.06.2018. Applicant/accused was granted ad-interim pre-arrest bail by this Court and today case is fixed for confirmation or otherwise of order passed by this Court on 18th July 2018.

2. Succinct the case of prosecution is that instant FIR was registered by the complainant on the basis of order under Section 22-A of Cr.P.C, passed by the Court of competent jurisdiction. The contents of FIR reveal that complainant's partner owns two shops near Metro Cinema, where he works under the name and style of "Masha Allah Oil Traders". On 06.05.2018 in early hours of the day, accused Habib-ur-Rehman (applicant/accused), co-accused Taj Muhammad and other peoples, including Chairman Union Council namely Nawaz Khan broke upon the locks of shops and took away goods worth Rs. 28 lacks, cash to the tune of Rs. 7

lacks and one 30 bore licensed pistol. The incident was witnessed by complainant's nephew Sher Ali. Accused persons also kidnaped Sher Ali and released him after 10 days. Hence, this FIR.

3. Heard learned counsel for the applicant/accused, learned A.P.G for the State and also gone through the record available before this Court.

4. Outcome of police investigation transpires that there is no evidence at the point of time, as to kidnapping of PW Sher Ali, accordingly section 365 PPC was omitted at the stage of submission of challan. Likewise there is no ocular evidence available of any independent witness to testify the occurrence of crime although alleged incident happened in broad day light. Prosecution also failed to bring any evidence against nominated accused Nawaz Khan, Chairman Union Council 14, Banaras Colony, Karachi. It is also a fact that the applicant/accused is an old aged person of seventy years. No recovery yet been made inspite of the fact that co-accused Taj Muhammad was arrested by the police and he remained in police custody remand before sending to jail, the said co-accused Taj Muhammad has also been enlarged on bail by the Court of learned VIIIth Additional Sessions Judge, Karachi West, vide order dated 24.07.2018, hence rule of consistency also applied in the case in hand, as applicant/accused and co-accused Taj Muhammad have been attributed to an identical role in the commission of alleged crime.

5. In view of the above circumstances a prime facie case of bail in favour of the applicant/accused is made out and requires further inquiry. Accordingly ad-interim bail order granted in favor of

applicant/accused Habib-ur-Rehman is confirmed on same terms and conditions.

6. Before parting, it needs not to make clarification that the observations recorded above are tentative in nature, therefore, the trial court shall not be influenced with them in any manner whatsoever.

7. Above are the reasons for short order dated 02.08.2018.

J U D G E

Fahim/PA