

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Bail Application No.838 of 2020

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

For hearing of bail application

Muhammad Awais ..Vs... The State

25.06.2020

Mr. Muhammad Hanif, advocate for the applicant.
Ms. Rahat Ahsan, Addl.P.G. Sindh.

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1. Through instant bail application, applicant/accused seeks bail after arrest in **FIR No.580/2019**, under **Section 412 PPC** registered at police station Shah Awami Colony, Karachi. Earlier the applicant/accused approached the Addl. Sessions Judge, East, Karachi for post arrest bail, which was declined vide order dated **19.05.2020**. Thereafter, the applicant approached this Court for grant of post arrest bail.
2. The facts are mentioned in the FIR, therefore, not needed to be reproduced herein.
3. Learned counsel for the applicant contended that applicant/accused is innocent and has falsely been implicated in this case with malafide intention. He further contended that nothing incriminating has been recovered from the possession of applicant and alleged mobile phone has been foisted upon him. He further contended that ingredients of **Section 412 PPC** against the applicant are missing and prima facie no case has been made out against the applicant. Therefore, applicant/accused is entitled for concession of bail.
4. Learned Addl. P.G opposed the bail application contending that recovery has been affected from the applicant/accused.
5. I have heard the arguments and perused the record and I have noticed as under:-
 - i. On pure legal ground that whether offence mentioned in the FIR of recovery of the stolen property from the

applicant, the case was supposed to be registered under **Section 411 PPC** and not under **Section 412 PPC**.

- ii. The contents of FIR shows that the stolen property allegedly recovered from the accused/applicant had reference to an offence registered under FIR No.392/2019 and the bare reading of the said FIR the offence of dacoity did not come out.
- iii. Learned Prosecution after going through the earlier **FIR No.392/2019** and the instant FIR and the definition of robbery and dacoity conceded that case against the applicant could have been registered under **Section 411 PPC** and not under **Section 412 PPC**. The offence under **Section 411 PPC** is punishable for three years.
- iv. Applicant/accused is behind the bars for more than nine months and is no more required for further investigation; therefore, no useful purpose would be served by keeping the applicants behind the bars for indefinite period.

6. In view of the above, case is made out for grant of bail on account of malafide in implicating the applicant/accused in the offence under **Section 412 PPC**, therefore, the applicant / accused is admitted to bail subject to furnishing solvent surety in the sum of **Rs.30,000/-** 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.

JUDGE