

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Bail Application No.186 of 2019

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

For hearing of bail application _____

14.03.2019

M/s. S.M. Azad Khan & Zahid Abbas Malik, advocate for the applicant.

M/s. Ikhtiar Ali Channa & Deedar Ali Chandio, advocate for the Complainant.

Ms. Rahat Ahsan, Addl.P.G. Sindh a/w SIP Tariq, I.O.

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1. Through instant bail application, applicant/accused Rustam Khan son of Aamir Khan, seeks bail after arrest in **FIR No.398/2018**, under **Section 392/34 PPC**, registered at police station Mangophir, Karachi.

2. Brief facts of the prosecution are that on 06.10.2018 at about 1815 hours the complainant Imran Haque has lodged the FIR, alleging therein that he is serving as a Financial Controller at Nazimabad. On 04.10.2018 he came on his duty at 10:00 a.m. where he came to know that last night robbery took place at Sale Centre and in the night at 4 a.m. two persons wearing Shalwar Qameez came into the Sale Centre through the passage of entrance and with the help of arms caught hold two Chowkidars namely Saifullah and Ali Khan and on gun point roped them and after breaking the locks taken out cash amount of Rs.1,29,37,798/- and also taken out two cheques amounting to Rs.53,000/- and 95000/- and fled away.

3. The applicant/accused approached the Court of learned Additional Sessions Judge-Xth (West) Karachi for post arrest bail, which was declined

vide order dated **12.12.2018**. Thereafter, the applicant approached this Court for grant of post arrest bail.

4. Learned counsel for the applicant contended that applicant/accused is innocent and has falsely been booked in this crime by the complainant. He further argued that nothing has been recovered from the possession of the applicant/accused and the recovery is foisted upon him as no description or any note number mentioned by the police that how much currency notes in what capacity recovered from the possession of accused, which creates doubt and case requires further inquiry. He further argued that there is two days delay in lodging of FIR without any plausible explanation. He further argued that except complainant no other private person has been associated by the police which is clear violation of Section 103 Cr.P.C, therefore, applicant / accused is entitled for concession of bail.

5. Learned Addl. P.G opposed the bail application contending that recovery is made from the applicant/accused; therefore, the present applicant is not entitled to concession of bail.

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

- i. As per FIR incident took place on **4.10.2018** and applicant was arrested on **27.10.2018**.
- ii. No specific role has been attributed to the present applicant.
- iii. Name of the present applicant is not mentioned in the FIR.

8. 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

SM