

Order Sheet  
**IN THE HIGH COURT OF SINDH,**  
CIRCUIT COURT, HYDERABAD

Cr. B. A. No. S- 827 of 2021

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DATE	ORDER WITH SIGNATURE OF JUDGE
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22.10.2021

For hearing of the main case

Mr. Ayaz Ahmed Khaskheli, Advocate along with the applicant  
Ms. Sana Memon, A.P.G.

**ADNAN-UL-KARIM MEMON, J.-** Through instant Cr. Bail Application, applicant Shahid Ali seeks pre-arrest bail in Crime No. 104 of 2021 registered at police station Sanghar under Section 392 & 34 PPC.

2. Earlier vide order dated 20.9.2021 without touching merits of the case, the applicant / accused was admitted to interim pre-arrest bail and today it is fixed for confirmation or otherwise.

3. The allegations against the applicant is that on 22.6.2021 he along with his accomplices robbed motorcycle, mobile phones, and wallet from the complainant, such FIR of the incident was lodged by the complainant on the same day under Section 392 P.P.C. He being apprehensive of his arrest approached the trial court, whereby his pre-arrest bail was declined vide order dated 8.9.2021. He now claims bail on the premise that he is innocent and has falsely been implicated in this case by the police at the instance of SHO PS Shahpur-chakar as he refused to give him petrol free of cost; that his name does not transpire in the FIR; that the offense does not fall within the prohibitory clause of Section 497 (1) Cr.P.C. Furthermore, the co-accused has been enlarged on bail by the learned Magistrate and pleaded for rule of consistency

4. Mr. Ayaz Ahmed Khaskheli learned counsel for the applicant has argued that the name of the applicant / accused does not transpire in the FIR but the police with malafide intention implicated the applicant / accused in the present case; that the offense does not fall within the prohibitory clause of section 497 Cr.P.C. and in such cases the bail is a rule and refusal is an exception; that the Complainant has not given the body complexion of

accused persons to identify them at identification parade, hence the applicants / accused are entitled to bail.

5. Learned A.P.G, opposed the bail application on the ground that in the larger public interest this court is required to ***nip the crime in the bud***; she emphasized that extraordinary relief cannot be granted to the applicant unless he satisfies the conditions specified through subsection (2) of Section 497 of Code of Criminal Procedure i.e. unless he establishes the existence of reasonable grounds leading to belief that he was not guilty of the offense alleged against him and that there were, in fact, sufficient grounds, warranting further inquiry into his guilt; having said so she argued that the name of the applicant does not transpire in the FIR but the complainant party at the time of incident seen the accused persons. She further contended that co-accused Javed and Sajid Ali confessed their guilt of robbery of motorcycle and also disclosed that present applicant was with them at the time of robbery. She further contended that the applicant has previous criminal record i.e Crime No. 119 of 2021 of PS Sanghar. She finally stressed that the applicant/accused has failed to satisfy any of the conditions for grant of pre-arrest as laid down by Hon'ble Supreme Court of Pakistan in the case of Awal Gul Rana Muhammad Arshad v. Muhammad Rafique and another **PLD 2009 SC 427**, hence she prayed for dismissal of instant bail application.

6. Admittedly, the name of the applicant does not transpire in the FIR; the offense does not fall within the prohibitory clause of Section 497 Cr.P.C. and the co-accused have already been admitted to bail by the trial court; therefore, under the rule of consistency the applicant is also entitled to the same treatment. Accordingly, the bail of applicant / accused is confirmed on the same terms and conditions.

JUDGE