

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. 2302 of 2021

Applicant : Muhammad Ramzan @ Ramzoo
s/o Muhammad Rahim Unar, through
Mr. Muhammad Ahmed Laghari, advocate

Respondent : The State, through Mr. Fahim Hussain
Panhwar, D.P.G., alongwith ASI Naseem Khan
of P.S. Shah Latif Town

Date of hearing : 22.02.2022
Date of order : 22.02.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Applicant/accused Muhammad Ramzan @ Ramzoo s/o Muhammad Rahim Unar through instant criminal bail application seeks post-arrest bail in Crime No. 635/2020, registered at P.S. Sukhan, Karachi under sections 397, 34, P.P.C. His earlier application for the same relief in Sessions Case No. 2511/2021 was heard and dismissed by the Court of IV-Additional Sessions Judge Malir, Karachi vide order dated 20.10.2021.

2. Precisely, the case of the prosecution as unfolded in the F.I.R. lodged on 05.11.2020 is that on said day at 0645 hrs., at Road No.9, near Brohi Juice Shop, Bhens Colony, Landhi, District Malir, Karachi, two unknown accused persons, riding on two motorcycle, robbed Rs. 300,000/- from Hakim Ali, the son of the complainant Barkat Ali, and at the time of committing robbery, they used deadly weapon and caused fire arms injuries to said son of the complainant.

3. The learned counsel for the applicant contends that the applicant is innocent and has falsely been implicated in this case by the I.O, as he refused to pay him bribe; that the offence under Section 397, P.P.C. does not fall within the prohibitory clause of section 497, Cr.P.C., that the applicant has been arrested in the instant case on the basis of his confession made in police custody which has no evidentiary value as the same is inadmissible under Article 39 of the Qanun-

e-Shahadat Oder, 1984; that the son of the complainant was called by the I.O at police station where he saw the applicant before holding of identification parade; hence, the identification test conducted by the Judicial Magistrate has lost its significance; that nothing has been recovered by the police from the possession of the applicant at the time of his arrest; that the guilt against the applicant requires further inquiry entitling him for bail. In support of his contentions, learned counsel has relied upon the cases reported as 2020 P Cr. LJ Note 88, 2018 YLR Note 82, 2014 MLD 1317, 2009 MLD 1047, 2007 MLD 242, 2007 YLR 1144, 2006 P Cr. LJ 1033 and 2004 P Cr. LJ 1431,

4. On the other hand, learned D.P.G. vehemently opposes this application on the grounds that the applicant, who is involved in nine cases of similar nature, after his arrest has been identified by the injured son of the complainant in identification parade.

5. I have considered the arguments advanced by the learned counsel for the parties and also perused the material available on record.

6. It appears from the perusal of the record that after lodging of the instant F.I.R., the applicant was arrested on 20.07.2021 in Crime No. 522 of 2021, registered under section 392,397/34, P.P.C. at P.S. Steel Town, who during interrogation disclosed about committing alleged robbery alongwith co-accused persons. Thereafter, on 27.07.2021, the injured son of the complainant identified the applicant as his accused in identification parade conducted by Judicial Magistrate-XII Malir, Karachi.

7. Applicant's claim with regard to his false implication and calling of the son of the complainant by the I.O at police station to see him before holding of identification parade are the issues that cannot be attended without going beyond the scope of tentative assessment, an attempt prohibited by law. The F.I.R. has been lodged promptly against the un-known accused persons without

any motivation or ill will. There is no cavil to the proposition that the confession by an accused while he is in custody of a police-officer shall not to be proved against him; however, in the instant case applicant has been arrested on being identified by the victim/injured son of the complainant in identification parade.

8. It is an admitted position that the applicant is involved in as many as nine cases of similar nature. No doubt, offence under Section 397, P.P.C. being carrying punishment with imprisonment for not less than seven (07) years does not fall within the prohibitory clause of section 497 Cr.P.C., yet in such like cases, the accused cannot claim bail as a matter of right. It may be observed that the offences like robbery/dacoity are frequently reported to have been committed without any restriction in urban and rural areas; not only creating scare among the people but ruining the safety of the life and property of law abiding citizens and also generating sense of insecurity amongst public at large.

9. From the tentative assessment of the evidence on record, it appears that the prosecution has sufficient evidence against the applicant to connect him with the alleged offence; therefore, he is not entitled to the concession of bail. The case-law cited by the learned counsel for the applicant being on distinguishable facts, does not advance the case of the applicant for the grant of bail; hence, I dismiss this criminal bail application.

10. Needless to mention here that the observations made hereinabove by this Court are tentative in nature and the same shall not influence the trial Court while deciding the case of applicant on merit.

JUDGE