

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No. 29 of 2022

Applicant : Ishaq alias Anar Khan s/o Sallar Khan, through
Mr. Irfan Khan Shaikh, advocate

Respondent : The State, through Mr. Fahim Hussain Panhwar
D.P.G. for the State

Date of hearing : 15.03.2022
Date of order : 15.03.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant criminal bail application applicant/accused Ishaq alias Anar Khan s/o. Sallar Khan seeks post-arrest bail in Crime No. 33 of 2021, registered at P.S. S.I.T.E. Super Highway, Karachi under sections 397, P.P.C. His earlier application for the same relief bearing No. 2444 of 2021 was heard and dismissed by the Court of IInd Additional Sessions Judge Malir, Karachi vide order dated 15.07.2021.

2. Precisely, the case of the prosecution as unfolded in the F.I.R. lodged on 13.01.2021 is that, on the said date at 09:45 p.m. inside street situated near Jamiat-ul-Rasheed, Sector No. 4, Ahsanabad, Scheme No. 33, Karachi three unknown accused persons, riding on a motorcycle, robbed mobile phone Tango and cash of Rs.450.00 from complainant Abdul Shakoor and Rs.4,500.00 from his friend, namely, Nadeem, who raised hue and cry whereupon police party on patrolling duty reached there, who chased the culprits and succeeded in apprehending one of them (present applicant) from whose possession one unlicensed pistol 30 bore loaded with magazine containing three live rounds as well as robbed mobile and cash of the complainant were recovered, for which he was booked in the aforesaid Crime.

3. The learned counsel for the applicant contends that the applicant is innocent and has falsely been implicated in this case with mala fide intention and ulterior motives; that there is no private witness of the alleged incident despite the fact that the incident took place in thickly populated area; that nothing was recovered from the possession of the applicant; that the alleged offence under Section 397, P.P.C. does not fall with the

prohibitory clause of section 497, Cr.P.C.; that the guilt of the applicant requires further inquiry entitling him for bail.

4. On the other hand, learned D.P.G. vehemently opposes this application on the grounds that the applicant alongwith co-accused robbed valuable articles from the complainant and his friend, who was apprehended red-handed and from his possession mobile phone and cash robbed from the complainant were recovered as well as unlicensed pistol; that besides this cases, applicant is involved in three other cases; as such, he is not entitled for bail.

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 the applicant alongwith co-accused robbed mobile phone and cash from the complainant and his friend, who was arrested by the police party luckily reaching the place of incident and from his possession mobile phone and cash robbed from the complainant were recovered, so also unlicensed pistol with three live bullets. The applicant has not alleged any motive against the complainant and his friend/eye-witness for falsely implicating him in the instant case. It is an admitted position that the applicant is also involved in (i) Crime No. 35 of 2021 registered at the same police station under section 397 P.P.C. (ii) Crime No. 374 of 2020 and (iii) Crime No. 34 of 2021, registered at the same police station under section 23 (1) (A) of Sindh Arms Act. 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.

7. 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; hence, I dismiss this criminal bail application.

7. 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

Athar Zai