

*Order Sheet*  
**IN THE HIGH COURT OF SINDH, KARACHI**

Cr. Bail Applications No. 213 to 225 of 2021

**Cr. Bail Application No. 213 of 2021**

Applicant: Raj Wali son of Taj Wali.  
 Through Mr. Shah Imroz Khan, Advocate.

Complainant: Through Mr. Aziz ur Rehman Akhund, Advocate.

The State: Through Syed Meeral Shah  
 Additional Prosecutor General Sindh.

-----

**Cr. Bail Application No. 214 of 2021**

Applicant: Raj Wali son of Taj Wali.  
 Through Mr. Shah Imroz Khan, Advocate.

The State: Through Syed Meeral Shah  
 Additional Prosecutor General Sindh.

-----

**Cr. Bail Application No. 215 of 2021**

Applicant: Raj Wali son of Taj Wali.  
 Through Mr. Shah Imroz Khan, Advocate.

Complainant: Through Mr. Naeem Akhtar Tanoli, Advocate.

The State: Through Syed Meeral Shah  
 Additional Prosecutor General Sindh.

-----

**Cr. Bail Application No. 216 of 2021**

Applicant: Raj Wali son of Taj Wali.  
 Through Mr. Shah Imroz Khan, Advocate.

The State: Through Syed Meeral Shah  
 Additional Prosecutor General Sindh.

-----

**Cr. Bail Application No. 217 of 2021**

Applicant: Raj Wali son of Taj Wali.  
 Through Mr. Shah Imroz Khan, Advocate.

The State: Through Syed Meeral Shah  
 Additional Prosecutor General Sindh.

-----

**Cr. Bail Application No. 218 of 2021**

Applicant: Raj Wali son of Taj Wali.  
Through Mr. Shah Imroz Khan, Advocate.

The State: Through Syed Meeral Shah  
Additional Prosecutor General Sindh.

-----

**Cr. Bail Application No. 219 of 2021**

Applicant: Raj Wali son of Taj Wali.  
Through Mr. Shah Imroz Khan, Advocate.

The State: Through Syed Meeral Shah  
Additional Prosecutor General Sindh.

-----

**Cr. Bail Application No. 220 of 2021**

Applicant: Raj Wali son of Taj Wali.  
Through Mr. Shah Imroz Khan, Advocate.

The State: Through Syed Meeral Shah  
Additional Prosecutor General Sindh.

-----

**Cr. Bail Application No. 221 of 2021**

Applicant: Raj Wali son of Taj Wali.  
Through Mr. Shah Imroz Khan, Advocate.

The State: Through Syed Meeral Shah  
Additional Prosecutor General Sindh.

-----

**Cr. Bail Application No. 222 of 2021**

Applicant: Raj Wali son of Taj Wali.  
Through Mr. Shah Imroz Khan, Advocate.

The State: Through Syed Meeral Shah  
Additional Prosecutor General Sindh.

-----

**Cr. Bail Application No. 223 of 2021**

Applicant: Raj Wali son of Taj Wali.  
Through Mr. Shah Imroz Khan, Advocate.

The State: Through Syed Meeral Shah  
Additional Prosecutor General Sindh.

-----

**Cr. Bail Application No. 224 of 2021**

Applicant: Raj Wali son of Taj Wali.  
Through Mr. Shah Imroz Khan, Advocate.

The State: Through Syed Meeral Shah  
Additional Prosecutor General Sindh.

-----

**Cr. Bail Application No. 225 of 2021**

Applicant: Raj Wali son of Taj Wali.  
Through Mr. Shah Imroz Khan, Advocate.

The State: Through Syed Meeral Shah  
Additional Prosecutor General Sindh  
a/w SIP Aqeel Ahmed P.S. Defence.

-----

Date of hearing: 29.04.2021

Date of order: 29.04.2021

**Arshad Hussain Khan, J.-** This common order will dispose of above listed criminal bail applications praying therein to grant post- arrest bail to the applicant/accused namely; Raj Wali son of Taj Wali.

2. Briefly stated the facts of **B.A. No. 213/2021** narrated by the complainant in FIR No. 553/2020 lodged u/s 397/34 PPC at P.S. Darakhsan are that on 07.11.2020 the complainant was present at his home; when suddenly three persons entered into house after jumping the wall, they had pistol in their hands meanwhile two persons also entered into house with pistol, two persons wearing pent shirt and three wearing Shalwar Qameez, they took out pistol upon them and they have taken gold ornaments 4/5 tolas, cash Rs.40,000/-, one licensed pistol 9MM No.TAV-16583 loaded magazine two magazine 20 rounds, one Laptop 9390558231, Head Phone, Mouse, One Oven, One UPS Battery, one Digital Scale, and fled away. Hence the FIR, registered against the 05 unknown persons.

3. Briefly stated, the facts of **B.A. No. 214/2021** narrated by the complainant in FIR No. 554/2020 lodged u/s 397/34 PPC at P.S. Darakhsan are that on 08.11.2020 at around 2200 hours the complainant an employee of Dr. Javed was present at the bungalow; when suddenly one face identifiable persons came along with his companion Mulamim Javed at servant quarter where Dilawar and

Junaid were sleeping, four dacoit persons bind them with cloth and one person stand with them while three persons entered into Bungalow and they have taken one licensed Revolver Smith & Vison 32 Bore No. 760537, one licensed pistol 9MM made in Turkey No. T-6429-14A04106, one dagger, which is a decoration piece, gold ornaments and cash and fled away. Hence, the FIR registered against 04 unknown person.

4. Briefly stated, the facts of **B.A. No. 215/2021** narrated by the complainant in FIR No. 580/2020 lodged u/s 397/34 PPC at P.S. Darakhsan are that on 22.11.2020 at around 1.00 am (night) hours the complainant along with his family was sitting at upper portion of the bungalow for having dinner meanwhile one white car number unknown came and one person get off and when complainant's watchman opened the door then three persons entered into the house and at the gunpoint looted cash of Rs.200000/, foreign currency of Rs.300,000/-, two prize bond of Rs.750/- and one bond of Rs.25,000/- one pair of tops. After committing dacoity they fled away. Hence, the FIR registered against the unknown persons.

5. Briefly stated the facts of **B.A. No. 216/2021** narrated by the complainant in FIR No. 581/2020 lodged u/s 397/34 PPC at P.S. Darakhsan are that on 22.11.2020 around 7.30 pm he was present at the upper portion of his house, when 4 persons (three of them looking Punjabi and one Pathan) entered into the house after jumping over the wall. They were armed with weapon and at the gun point they looted cash including local as well as foreign currencies, entire gold jewelry of his wife, which was in a black pouch, ladies watches, RSB Credit Card, documents of immigrations, and they fled away. Hence, the FIR registered against the 04 unknown persons.

6. Briefly stated the facts of **B.A. No. 217/2021** narrated by the complainant in FIR No. 582/2020 lodged u/s 397/34 PPC at P.S. Darakhsan are that on 22.11.2020 at about 2100 hours, when complainant was present at her house, 03 persons entered into the house after jumping over the wall, they made all the family members hostage at gun point thereafter, they looted cash including local as well as foreign currencies, jewelry, DVR, laptop and they fled away. Hence, the FIR registered against the 03 unknown persons.

7. Briefly stated, the facts of **B.A. No. 218/2021** narrated by the complainant in FIR No. 582/2020 lodged u/s 397/34 PPC at P.S. Gizri are that on 06.11.2020 at around 2.15 pm, the complainant after performing Namaz-e-Juma when came back to his house, suddenly five (5) unknown young persons (Pushto speaking), armed with weapon, entered into the house and they made all the family members hostage at gun point, thereafter, they looted one pistol 9MM No.1528793 license No.49606392495, two Gold *Karay* (bangle) of 10 *Tolas*, one CCTV camera Device and fled away. Hence, the FIR registered against the 05 unknown persons.

8. Briefly stated the facts of **B.A. No. 219/2021** narrated by the complainant in FIR No. 585/2020 lodged u/s 397/34 PPC at P.S. Gizri are that on 08.11.2020 the complainant and his father Muhammad Shoaib were present at their house when around 06.15 pm four young persons entered into the house they made complainant and his father hostage at gun point, thereafter, they looted cash and jewelry and fled away. Hence, the FIR registered against the 04 unknown persons.

9. Briefly stated the facts of **B.A. No. 220/2021** narrated by the complainant in FIR No. 600/2020 lodged u/s 397/34 PPC at P.S. Gizri are that on 22.11.2020 after attending marriage he along with his family when reached at home at 10.00 pm (night), four (4) persons having mask on their faces entered into the house. They were armed with weapons. They made the complainant and his family members hostage at the gun point looted cash including local as well as foreign currencies, and golden ornaments and fled away. Hence, the FIR registered against the 04 unknown persons.

10. Briefly stated, the facts of **B.A. No. 221/2021** narrated by the complainant in FIR No. 136/2020 lodged u/s 397/34 PPC at P.S. Sahil are that on 06.11.2020 complainant received phone call from his home that there is incident of dacoity took place in his house. Upon such information, he reached at home where his family members told him that five persons entered into the house and at the gunpoint they have looted cash, golden ornaments, one camera, three watches, and fled away. Hence, the FIR registered against the 05 unknown persons.

11. Briefly stated the facts of **B.A. No. 222/2021** narrated by the complainant in FIR No. 137/2020 lodged u/s 397/34 PPC at P.S. Sahil are that on 07.11.2020 at about 2100 hours when the complainant, a security guard, was present at gate of the bungalow, suddenly two persons entered into premises after jumping over the wall they initially made the complainant hostage at the gunpoint and subsequently they tied him in a room. Thereafter, they took away the complainant's licensed weapon No.0881950 loaded magazine. Hence, the FIR registered against the 02 unknown persons.

12. Briefly stated the facts of **B.A. No. 223/2021** narrated by the complainant in FIR No. 446/2020 lodged u/s 397/34 PPC at P.S. Clifton are that on 08.11.2020 when the complainant was present at his home, at about 2030 hours, he heard that his servant Siddiq was talking with someone, however, when enquired he said nothing. Thereafter, servant Siddiq told the complainant that when he was present at servant quarter three persons wearing Qameez Shalwar armed with weapons entered and they tied his hands, however, after asking about the owners they fled away. Hence, the FIR registered against the 04 unknown persons.

13. Briefly stated the facts of **B.A. No. 224/2021** narrated by the complainant in FIR No. 414/2020 lodged u/s 395/34 PPC at P.S. Defence are that on 06.11.2020 at around at 2010 to 2030 hours when the complainant, by profession a businessman, came to his house, his wife told him that she and her children were having food and servant Aqeel Ahmed was in kitchen then suddenly five (5) unknown persons, armed with weapons, entered into the house and they made complainant's wife and children hostage at the gunpoint and looted cash including local as well as foreign currencies, golden ornaments, laptop, and fled away. Since, key of small gate of the house is missing, therefore, the complainant has doubt upon his present and ex-servant. Hence, the FIR registered against the 06 persons 4 of them were unknown.

14. Briefly stated the facts of **B.A. No. 225/2021** narrated by the complainant in FIR No.795/2020 lodged u/s 397/34 PPC at P.S. Darakhsan are that on 06.11.2020, the complainant came to know that the incident of dacoity took place in his brother's house. Upon such information, he rushed to his brother's house where he was informed

that at about 1530 hours four (4) unknown persons, armed with weapons, entered into the house and on gun point they looted cash of Rs.75,000/- golden old ornaments of Rs.5/6 lacs and fled away. Hence, the FIR registered against 04 unknown persons.

15. Learned counsel for the applicant/accused has argued that the applicant / accused is innocent and has falsely been implicated in the above crime by the police with malafide intentions and ulterior motives that too on the statement of co-accused recorded during police custody. Under Article 38-39 of Qanoon-e-Shahdat, such statement has no value in the eye of laws. It is also argued that the prosecution has also failed to submit challan of the present accused in the above crimes since his arrest on 26.12.2020. Further argued that no name, description, role and character of the applicant/accused is mentioned in FIRs, and the case registered against unknown persons, which create serious doubt upon the prosecution story; that no recovery has been effected from the above applicant/accused and as such Section 397 PPC is not attracted; that the applicant/accused being clerk of property holder and nephew of Momin Khan had entered into tenancy agreement with many tenants and in this regard he also entered into tenancy agreement dated 15.09.2020 till 04.09.2021 for 11 months with one of co-accused namely; Sardar Ali who was arrested on 16.12.2020 from the rented premises and his arrest was shown in Crime No.582/2020 at PS Gizri and where disclosed during confessional statement the name of applicant/accused as facilitator; that no identification parade of applicant/accused was held and no role has been associated to corroborate the discloser of co-accused; that no statement under Section 164 Cr.P.C. was recorded of any of the accused persons as such the matter requires further enquiry; It is urged that above cases are fit for further inquiry as the accused/applicant is neither involved in any heinous, gruesome, brutal nor sensational cases, which is shocking to public morality. Further urged that the alleged offence does not fall under the prohibitory clause of Section 497 Cr.P.C. and bail in such types of cases are the rule while refusal is an exception. Lastly, argued that applicant/accused is neither desperate, dangerous, nor a hardened criminal nor there is any apprehension that he may destroy the evidence of the prosecution to be adduced against him and as such he is entitled to the concession of bail.

16. Learned Addl.P.G. for the State, duly assisted by the complainant's counsel, has vehemently opposed the bail applications on the ground that applicant/accused has facilitated the main accused persons for commission of the offence in above crimes, therefore, his role is very much assigned and as such he is not entitled to the concession of the bail.

17. I have considered the arguments advanced by learned counsel for the applicants/accused and learned Addl. PG as well as perused the material available on the record.

18. From perusal of the FIRs, it appears that the same have been lodged against the unknown accused persons, who committed dacoity in the houses of different complainants and took away their valuables on the force of weapon. Record does not show that any implicating material evidence has been recovered from the present applicant/accused. From the record, it transpires that the name of the applicant/accused has been included in the above crime upon the statement of co-accused recorded under Section 161 Cr.P.C. In this respect, the Hon'ble Supreme Court in the case The State through Director Anti-Narcotic Force, Karachi v. Syed Abdul Qayum [2001 SCMR 14], while dilating upon the evidentiary value of statement of co-accused made before the police in light of mandates of Article 38 of the Qanun-e-Shahadat Order, 1984, inter alia, held that statements of co-accused recorded by police during investigation are inadmissible in the evidence and cannot be relied upon.

Similar view has been reiterated in the case of Raja Muhammad Younas v. The State [2013 SCMR 669], wherein it has been held as under:-

“2. ....After hearing the counsel for the parties and going through the record, we have noted that the only material implicating the petitioner is the statement of co-accused Amjad Mahmood, Constable. Under Article 38 of Qanun-e-Shahadat Order, 1984, admission of an accused before police cannot be used as evidence against the co-accused.....”

It would not be out of place to mention here that evidence of an accomplice is ordinarily regarded suspicious, therefore, extent and level of corroboration has to be assessed keeping in view the peculiar facts and surrounding circumstances of the case.



19. The record shows that the applicant/accused is not previous convict nor hardened criminal. Moreover, the applicant/accused has been in continuous custody since his arrest and is no more required for any investigation nor the prosecution has claimed any exceptional circumstance, which could justify keeping him behind the bars for an indefinite period pending determination of his guilt. It is well settled that while examining the question of bail, Court has to consider the minimum aspect of the sentence provided for the alleged offence. From the tentative assessment of the evidence in the hand of prosecution, it appears that there is hearsay evidence against the present applicant/accused, while it is yet to be determined whether he is actually involved or not, which is possible only after recording of the evidence by the trial Court.

20. In view of the peculiar facts and circumstances of the case, I am of the opinion that, prima facie, the applicant/accused has succeeded to bring his case within the purview of further inquiry and as such he is entitled to bail and for this reason, the applicant/accused was admitted to bail subject to his furnishing solvent surety in the sum of Rs.1,00,000/- in each case and P.R. Bond in the like amount to the satisfaction of the trial Court by my short order dated 29.4.2021.

21. Needless to mention here that any observation made in this order is tentative in nature and shall not affect the determination of the facts at the trial or influence the trial court in reaching its decision on the merits of the case. It is, however, made clear that in the event if, during proceedings, the applicant/accused misuses the bail, then the trial court would be competent to cancel the bail of the applicant/accused without making any reference to this Court.

Above are the reasons of my short order dated 29.04.2021

Judge

*Tahir\*\*\**