

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. 496 of 2022

Applicant : Barkatullah s/o Asmatullah, through
Mr. Shamraiz Khan, advocate

Respondent : The State, through Mr. Fahim Hussain
Panhwar, D.P.G., a/w complainant Mujeeb-ur-
Rehman and S.I.P. Chan Muhammad of P.S.
Steel Town, Karachi.

Date of hearing : 12.04.2022
Date of order : 12.04.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant criminal bail application applicant/accused Barkatullah s/o Asmatullah seeks post-arrest bail in Crime No. 435/2021, registered at P.S. Steel Town, Karachi under sections 392, 397, 511, 427, 34, P.P.C. His earlier application for the same relief in Sessions Case No. 2241/2021 was heard and dismissed by the Court of IV-Additional Sessions Judge Malir, Karachi vide order, dated 31.01.2022.

2. Precisely, the case of the prosecution as unfolded in the F.I.R. is that on 21.06.2021 at 04:12 a.m., two unknown accused persons, riding in a Toyota-Corolla car bearing registration No. R-5877, duly armed with deadly weapon, attempted to rob the complainant and his friends and on failure therein one of the accused inflicted stick blow on the wind screen of complainant's vehicle and ran away.

3. It appears after hearing the learned counsel for the applicant as well as learned D.P.G. and perusing material on the record that the present applicant was arrested in Crime No. 436/2021 registered under section 23(1)(a) of Sindh Arms Act, 2013, on the same day at about 07:15 p.m. along with alleged car, who during interrogation disclosed about his involvement in the instant crime,

whereafter his identification parade was held through concerned Judicial Magistrate, where the complainant identified him as one of the accused involved in the instant case. There is no cavil to the proposition that the confession by an accused made by him whilst he is in custody of a police-officer is not proved against him under Article 39 of the Qanun-e-Shahadat Order, 1984 ; however, in the instant case applicant after being arrested, has been identified by the complainant in the identification parade.

4. It is an also admitted position that the applicant is involved in as many as seven cases of identical 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., while offence under Section 392, P.P.C. carries punishment for imprisonment for a term which shall not be less than three years and more than ten years, whereas offence under section 427, P.P.C. is bailable and offence under Section 511, P.P.C. carries punishment with imprisonment for a term which may extend to one-half of the longest term of imprisonment provided for the offence. There is also no cavil to the proposition that the Court while hearing a bail application is not to keep in view the maximum sentence provided by the Statute for the charged offence but the one which is likely to be entailed; however, 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.

5. 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 commission of alleged offence; therefore, he is not entitled to concession of bail; hence, I dismiss this criminal bail application.

6. 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