

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.

Crl. Bail Application No.S-547 of 2022.

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection.
For hearing of main case

16.05.2022.

Mr. Gulfam Ali Narejo advocate for the applicant.
Mr. Abdul Waheed Bajirani APG for the State.

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ZULFIQAR AHMED KHAN,J- By means of this application, applicant / accused Azizullah @ Aziz s/o Mako Khan, seeks post-arrest bail in Crime No.22/2022, registered at P.S, Nooriabad under sections 395 and 34, PPC. Earlier his bail application has been declined by learned IInd. Additional Sessions Judge, Kotri vide order dated 22.04.2022.

2. Precisely, prosecution case is that on 26.03.2022 complainant Shahzad Siddiqui lodged FIR alleging therein that he being General Manager, Maltex Weaving Company residing in it, which is under construction whereas many labourers are working there, which are also stay in the same factory. On 25.03.2022 at morning time the Mill contractor Ishtique Hussain informed the complainant on cell phone at about 3.00 a.m. that some unknown persons having weapons from service road side entered in their Mill, after that Security guard Shahnawaz on the force of weapon kept him silent and snatched two mobile phone and from other labourers Shahid snatched Rs.6000/- and from Abdul Qadir snatched one mobile of China and from Ramzan snatched Rs.8000/- each and one china mobile, after snatching from them, they theft 400 feet wire of 120 mm and 2) 380 feet wires mm as well as 70 feets wire of 95 mm theft / cut and also welding plant generator pump, water pump on unknown vehicle and went away, hence this FIR.

3. Learned counsel for the applicant has contended that applicant/accused being innocent has been falsely involved in

this case with malafide intention; that the FIR has been lodged with inordinate delay of about 12 hours, without any plausible explanation by the complainant; that applicant is not named in FIR, but his name was inserted on the statement of co-accused by the I.O during investigation; that alleged incident is unseen and un-witnessed and no identification parade in respect of present applicant was held; that alleged offence do not fall within prohibitory clause of section 497, Cr.P.C, therefore, he prayed for grant of bail to the applicant as his case requires further inquiry.

4. Conversely, learned APG opposed the grant of bail to the applicant by stating that he is nominated in the FIR with specific role, however, on query with regard to the recovery of any article from him, he states that he does not have police papers/file.

5. Arguments heard and record perused. Admittedly, there is delay of about 12 hours in lodgement of the FIR, which has not been properly explained by the complainant and applicant is not nominated in the said FIR, however, his name has been inserted in the charge sheet by the I.O. during investigation on the basis of statement of co-accused. No doubt, the alleged offence is unseen and un-witnessed because complainant himself stated in his FIR that he has been informed by the contractor that some unknown persons committed robbery of generator, one welding machine and three motors etc. The contractor is also not eye witness of the alleged incident as he has also been informed by chowkidar and labourers, therefore, it is yet to be determined by the trial court after recording evidence of prosecution witnesses. Nothing is available on record to shows that any recovery was effected from the present applicant. The investigation in the case is completed and applicant/accused is no more required for further investigation by the police, therefore, case against the applicant/accused requires further inquiry as envisaged by sub-section (2) to section 497, Cr.P.C.

6. In view of above circumstances, prima facie, I am of the humble opinion that the applicant has succeed to make out a case for bail at this stage. Resultantly, instant bail application is allowed. Let the applicant be released on bail, subject to his furnishing solvent surety in the sum of Rs.50,000/-[Rupees fifty thousand only] and PR bond in the like amount, to the satisfaction of learned trial court.

JUDGE.

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