

**HIGH COURT OF SINDH, CIRCUIT COURT AT
HYDERABAD**

Cr. Bail Application No.S-486 of 2022

[Ghulam-u-Din versus The State]

DATE	ORDER WITH SIGNATURE OF JUDGE
Applicant:	Through Mr. Mumtaz Ahmed Lashari advocate
Complainant:	None present
The State:	Through Mr. Imran Ali Abbasi APG
Dates of hearing:	01.07.2022
Date of Decision:	01.07.2022

ORDER

MUHAMMAD FAISAL KAMAL ALAM J. - Applicant/ Accused is seeking post-arrest bail in Crime No.07 of 2022 lodged under Section 395, 397& 342 PPC at PS Hussainabad Hyderabad. Version of FIR is not required to be reproduced; however, crux of which is that Complainant Anwar Hussain has reported the incident of robbery at his premises, which according to him was committed by three unknown persons, who have stolen the valuable jewellery and other articles, detail whereof is mentioned in the FIR.

2. Mr. Mumtaz Ahmed Lashari, learned counsel for the Applicant, has stated that firstly the incident is of 07.01.2022 and it was reported after four days, that is, on 11.01.2022. He further contends that Applicant/Accused is never nominated in the FIR, but he is implicated in the case on the basis of supplementary Statement of Complainant; further contends that Applicant/Accused is the victim of police highhandedness, as they have lodged different FIRs on the same date, which are available at page-51 to 63; argues that no Identification Parade was ever conducted and the claim of Complainant, with regard to recognition of present Applicant/Accused, is doubtful. He has referred, in particular, the

Order dated 23.02.2022 in which, in the present case, learned Trial Court has refused further remand to the police officials and has send the Applicant/Accused to jail with further direction that the medical treatment be given, as he has suffered injury. He has cited the Decisions (i) 2002 SCMR 1304 (ii) 2022 YLR 136.

3. Learned APG has opposed the bail and has stated that Applicant/Accused is a habitual criminal and has been correctly implicated in earlier FIRs; contends that the Complainant himself has recognized the Applicant/Accused, though in Police Station; however, he does not dispute the fact that no Identification Parade was conducted. He also contends that one of the stolen articles viz: Mobile Phone has been recovered on the pointation of Applicant/Accused.

4. Heard the arguments and record considered.

5. The present record shows that Applicant/Accused has been granted bail in previous FIRs; whereas he has been acquitted in one of previous FIRs bearing No.14 of 2022, vide an Order dated 30.05.2022, which Order today has been placed on record by the learned Counsel for the Applicant/Accused. The crux of the case law is that if an Accused is not nominated in the FIR, but implicated in the case by way of supplementary Statement, which does not have evidential value, the case then is of further inquiry; non-holding of Identification Parade, after the arrest, also brings the case of Accused within the purview of sub-section 2 of Section 497 Cr.P.C, extending concession of bail to him.

6. Since at this bail stage no deeper appreciation can be made and till date there is absence of record on the basis of which Applicant/Accused can be held guilty of committing the offence in question, coupled with the fact that he was never nominated in the FIR nor Indentification Parade was held; as also in view of the case law, Applicant/Accused is entitled for concession of bail.

Accordingly bail is granted to the Applicant/Accused subject to his furnishing a solvent surety in the sum of Rs.1,00,000/- (Rupees One Hundred Thousand Only) and P.R Bond in the like amount to the satisfaction of learned Trial Court.

7. It is made clear that any observation made herein above are tentative in nature and the same would not prejudice the trial. Learned Trial Court is fully empowered to pass any necessary order, if the concession of bail is misused by the Applicant/ Accused.

J U D G E

Sajjad Ali Jessar