

**ORDER SHEET**

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

Crl. Bail Application No. 2034 of 2020

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*Date*

*Order with signature of Judge*  
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For hearing of bail application.

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**27th January 2021**

Mr. Irshad Ali Shar, advocate for applicant/accused.

Mr. Faheem Hussain Panhwar, DPG.

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Through instant application, applicant seeks post arrest bail in Crime No. 492/2020 under Section 392/397/34 PPC, registered at Police Station Steel Town, Karachi.

2. Precisely, relevant facts of the persecution are that present applicant alongwith co-accused forcibly snatched mobile phone as well as brown coloured purse having driving license, visiting card and cash of Rs.700/- from the complainant on gun point and fled away; they were chased by the area police and applicant was arrested by police alongwith motorcycle while co-accused fled away. Hence FIR was registered.

3. Learned counsel for the applicant/accused inter-alia contends that applicant/accused has been falsely implicated in the present crime; that no independent witness has been associated from the people by the police; that offence does not fall within prohibitory clause of section 497(1) Cr.P.C; that the accused allegedly made direct firing upon police but none of the police officials was injured nor their motorcycle was damaged, He lastly prayed that case of the prosecution requires further enquiry hence, the applicant/accused may be admitted to post arrest bail.

4. Learned Deputy P.G. Sindh contends that the applicant/accused was arrested red handed at the place of incident; that no enmity has been alleged by the applicant/accused with the complainant to falsely

implicate him in the instant crime; that recovery of the robbed articles was effected from the possession of applicant/accused, hence, he is not entitled for bail.

5. Heard and perused the record.

6. It is now well-settled law that at the bail stage only a bird eye-view of evidence is taken into consideration while deeper appreciation of evidence is not permissible, therefore, accused is required to establish a case of *further inquiry*. Of course, if it appears to the Court at any stage of trial that there are no reasonable grounds for believing that the accused had committed a non-bailable offence and there are sufficient grounds for further inquiry into his guilt, the accused shall be released on bail. While exercising such discretion, the Courts must always satisfy its conscious between existence or non-existence of '**reasonable grounds**' to believe link or otherwise of accused with offence. In every criminal case some scope for further inquiry into the guilt of accused exists, but on that consideration alone it cannot be claimed by the accused as a matter of right that he is entitled to bail. For bringing the case in the ambit of further inquiry, there must be some *prima facie* evidence, which on the tentative assessment, are sufficient to create doubt with respect to involvement of accused in the crime. In *Iqbal Hussain v. Abdul Sattar & another* (PLD 1990 SC 758) while setting aside the bail granting order of the High Court, the court referred to the tendency in courts to misconstrue the concept of further enquiry and held as follows –

*'It may straightway be observed that this Court has in a number of cases interpreted subsection (2) of section 497 Cr.P.C which, with respect, has not been correctly understood by the learned Judge in the High Court nor has it been properly applied in this case. While he thought that it was a case of further inquiry which element, as has been observed number of times in many cases, would be present in almost every case of this type. The main consideration on which the accused becomes entitled to bail under the said subsection is a finding, though prima facie, by the police or by the court in respect of the merits of the case. The learned Judge in this case avoided rendering such prima facie opinion on merits as it is mentioned in subsection (2) of section 497 Cr.P.C, and relied only on the condition of further inquiry. This approach is not warranted*

*by law. Hence, the case not being covered by subsection (2) of section 497 Cr.P.C, the respondent was not entitled to bail thereunder as of right.*

Each case has its own foundation of facts, therefore, it is not possible to put each and every case in the cradle of further inquiry to provide relief to accused by releasing on bail merely by repeating words of *further inquiry* or raising *presumptions* and *surmises* but such consideration must remain confined to *tentative assessment* of available material only.

7. Perusal of FIR reveals that applicant/accused was arrested at spot while he along with co-accused was escaping after the commission of crime. Robbed article was also recovered from the possession of accused. The defence has miserably failed to establish any personal grievances of the complainant, ill will or animosity on the part of complainant or police, which might have actuated them to falsely implicate the applicant in this case. At bail stage deeper appreciation of evidence is not permissible under the settled principle of law. It is significant to note here that offences like robberies/dacoits are frequently reported to have been committed in Karachi City, which create scare among the people therefore, accused of such *like* offences should not be dealt as that of an **ordinary offence**.

8. In the above circumstances, prima-facie, there are reasonable grounds to believe that applicant/accused has committed alleged offence, therefore, I am of the considered view that the learned counsel for the applicant has not been able to make out a case for grant of bail. The bail application being devoid of merit is **dismissed** accordingly.

Needless to mention that the above observations are purely tentative in nature and would not prejudice to the merits of case.

**J U D G E**