

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Cr. Bail Application No. 766 of 2018

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

For hearing of bail application.

13.11.2018

Mr. Nazakat Ali, Advocate for applicant.

Mr. Zahoor Shah, DPG for State.

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The applicant Kamran has sought pre-arrest bail in crime number 149 of 2018 registered under sections 394 and 34 P.P.C at the Azizabad police station. Earlier, his pre-arrest bail application was dismissed by the learned 7th Additional District & Sessions Judge, Central, Karachi on 23-5-2018.

2. Brief facts of the case are that Allah Wasaya lodged the aforementioned F.I.R. on 13-5-2018 stating therein that he was at his shop along with his sons Zaman and Rafiq earlier that day when two boys came on a motorcycle and robbed him and an employee of his of one mobile phone each. They were fleeing when a friend of his named Ahmed tried to apprehend the two boys. One boy named Sadiq opened fire, which bullet hit his son on his thigh. Sadiq was apprehended on the spot while the other boy ran away with the two mobile phones.

3. Admittedly, it is the co-accused Sadiq who is said to have stated that the name of his accomplice was Kamran. The applicant was not arrested as he was said to have escaped the premises however he himself surrendered before the learned trial court. The evidentiary value of the statement of the co-accused implicating the applicant as his accomplice will have to be determined at trial. The complainant Allah Wasaya appeared in court and categorically stated that the applicant was not the person who had accompanied Sadiq on the day of the incident. He also subsequently swore an affidavit saying the same. He also stated that the police had on its own included the name of the applicant in the challan. In these circumstances, the inclusion of the name of the applicant by the police could suggest malafide on the part of the police and the same cannot be conclusively ruled out at this stage. In the foregoing circumstances doubt is created as to whether the applicant is the person who had accompanied co-accused Sadiq to rob the complainant. The applicant's case falls within the ambit of section 497(2) Cr.P.C and one of further enquiry.

4. Above are the reasons for my short order dated 17-10-2016 which was as follows:

“For the reasons to be recorded later on, the interim bail granted to the applicant on 28.5.2018 is confirmed on the same terms.”

JUDGE

