

**ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI**

**Crl. Bail Application No. 1223 of 2018**

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

For hearing of bail application.

**17.12.2018**

Mr. Niaz Ali, Advocate for applicant.

Ms. Siraj Ali, Addl.P.G. for the State.

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Sadam Hussain has filed this application seeking post arrest bail in crime number 266 of 2018 registered under section 381-A P.P.C. at the Defence police station. Earlier his post arrest bail application filed before the learned 3<sup>rd</sup> Additional Sessions Judge, Karachi South was dismissed vide an order dated 1-9-2018.

2. Brief facts of the case are that Mohammad Abrar lodged the aforementioned F.I.R. at 1530 hours on 17-8-2018 reporting an incident that had occurred between 1300 and 1400 hours the same day. Abrar reported that he had parked his motorcycle outside a shopping mall but that after he returned from his shopping trip he saw that the motorcycle had been stolen. He registered the F.I.R. against unknown people.

3. I have heard the learned counsel for the applicant as well as the learned A.P.G and examined the record. My observations are as follows.

4. Upon a query from the learned A.P.G. as to how the applicant was arrested in the crime, the learned A.P.G replied that at 1535 hours on 17-8-2018, three persons on a motorcycle were driving very fast on the road when they were signaled to stop by the police upon the identification of two individuals named Aurangzaib and Mohammad Akram, who claimed to be employees of the tracker company that had its tracker installed on the stolen motorbike. The motorcyclists did not stop but in their attempt to flee, they fell down. Two of the three riders managed to escape while the third (who was the applicant) was arrested.

5. I find it rather improbable that the F.I.R in the case is lodged at 1530 hours and the arrest made at 1535 hours on a road ostensibly not even close to the scene of incident. The learned A.P.G. has been unable to explain how while the F.I.R. was still being recorded the arrest was made in the crime. The prosecution will get an opportunity to explain this circumstance when the evidence is led at trial. No record of

the tracker company to support the assertions made by the prosecution is still to come on record. No evidence that the motorcycle was in the name of the person complaining of its theft has been put on record. Further, the offence with which the applicant is charged falls within the non-prohibitory clause of section 497 Cr.P.C. and in the foregoing circumstances it also appears to be a case of further enquiry.

6. Above are the reasons for the short order dated 6-12-2018 in terms of which the applicant was admitted to post arrest bail subject to his furnishing a solvent surety in the amount of Rs. 50,000 and a P.R. Bond in the like amount to the satisfaction of the learned trial court.

JUDGE