

IN THE HIGH COURT OF SINDH AT KARACHI**Cr. Bail Application NO. 80 of 2018**

Applicant : **Rehan Niazi**
through Mr. Abdul Hafeez Lashari, Advocate

Versus

Respondent : **The State**
through Mr. Zahoor Shah, DPG

Complainant : **through Mr. Afaq Ahmed, Advocate**

Date of hearing : 02-04-2018

ORDER

Omar Sial, J Rehan Niazi, the applicant, has sought pre-arrest bail in crime number 654 of 2014 registered u/s 395, 412, 202 P.P.C. at the Preedy police station on 28-10-2014. His earlier pre-arrest bail application was turned down by the learned 6th Additional Sessions Judge, South at Karachi on 10-1-2018.

2. Facts of the case are that one Mohammad Jaffar registered the aforementioned F.I.R stating therein that on 28-10-2014 he was informed by his watchman that someone had broken into his (Jaffar's) shop. The complainant reached his shop and saw the locks broken and discovered that 25 cartons containing mobile phones were missing from inside the shop. His watchman told him that earlier 8 to 9 boys had come who tied the watchman with a rope and took away the cartons on gunpoint.

3. I have heard the learned counsel for the applicant as well as the learned counsel for the complainant and the learned D.P.G. I have also perused the available record with their able assistance. My observations are as follows.

4. The learned D.P.G candidly admitted that the only evidence available against the applicant is the statement of his brother Noman Khan who was arrested earlier in the crime. No recovery was made from the applicant subsequent to Noman's confession and statement made in police custody. No description of the boys who broke into the shop was given by the watchman. The watchman also declined to identify any person on the ground that he was

blindfolded and as it was night he did not see the faces of the accused. It appears that the memo of the goods stolen does not contain specifics of the phones etc alleged to have been robbed. The charge sheet prima facie does not show why and how and on what evidence was Noman Khan arrested. Be that as it may, it is a matter of record that no recovery has been made from the applicant. Noman Khan has been granted bail even though it is alleged that recovery of certain items was made on his pointation. Keeping in view the quality of evidence available at this stage, the learned counsel for the applicant's submission that the sole reason that the applicant has been nominated in this case is due to the malafide on the part of the police who only want to show their efficiency, cannot be conclusively brushed aside at this preliminary stage. The veracity of the prosecution allegations can only be verified at trial. Prima facie it appears that the case of the applicant falls within the ambit of section 497(2) Cr.P.C and thus one of further enquiry.

5. Above are the reasons for the short order of 2-4-2018 in terms of which the interim pre-arrest bail granted to the applicant on 17-1-2018 was confirmed on the same terms and conditions.

JUDGE