

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No. 1684 of 2020

Date order with signature of Judge

For hearing of bail application.

15th December, 2020

Mr. Ahmed Ali Ghumro, advocate for applicant.

Mr. Talib Ali Memon, APG.

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Omar Sial, J: Ubaid Ali alias Baber has sought post arrest bail in crime number 1254 of 2019 registered under section 392, 395, 412 and 34 P.P.C. at the Korangi Industrial Area police station. Earlier, his application seeking bail was dismissed by the learned 11th Additional Sessions Judge, Karachi East on 25-6-2020.

2. Haroon Yaqoob filed the aforementioned FIR on 12-10-2019 reporting an incident that had occurred earlier that day. He narrated that he was a photographer by profession and that as he was returning home, 5 persons on 2 motorcycles came and snatched his bag on the force of a pistol and took away his camera and lenses. Haroon noted the registration number of the motorcycle as KKK-594.

3. I have heard the learned counsel for the applicant as well as the learned APG. The complainant did not effect an appearance despite notice. My observations are as follows.

4. The FIR is silent on the description of the boys who allegedly robbed the complainant. Not even one was identified by the complainant. The applicant was arrested on 18-5-2020 i.e. 7 months after the incident when the complainant recorded a section 162 Cr.P.C. statement and said that the applicant was one of the persons who had robbed him. There appears to be no basis for the complainant to have reached this conclusion. Needless to say that no identification parade was held. The investigation officer has not looked into who the owner of the motorcycle was on which the boys rode nor has he conducted any investigation in this behalf.

5. The challan records that the complainant on 14-5-2020 had gone to the police and recorded his section 162 Cr.P.C. statement in which he stated that he was robbed by one Mohammad Shan. Upon the complainant's identification Shan was arrested allegedly along with the stolen property. Shan named the applicant as one of the persons who had sold him the photography equipment. It is an admitted position that Shan was granted bail by the learned trial court as the complainant swore an affidavit that Shan was innocent. The investigating officer collected no evidence that the equipment recovered from Shan was actually sold to him by the applicant. The only piece of evidence against the applicant is a statement of the person from whom recovery was made. That too appears to be uncorroborated at the moment.

6. In view of the above, the case of the applicant is one of further inquiry.

7. Above are the reasons for the short order dated 2.12.2020.

JUDGE