

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

Crl. Bail Application No. 46 of 2023

---

**DATE**

**ORDER WITH SIGNATURE OF JUDGES**

---

For hearing of bail application.

**03-03-2023**

Mr. Muhammad Ajmal Jatoi, Advocate for applicant.

Mr. Muhammad Nadeem Akhtar Qaisrani, Advocate for complainant.

Mr. Faheem Ahmed Panhwar, Addl.P.G.

=====

**Omar Sial, J:** Abdul Sattar has sought post arrest bail in crime number 1013 of 2022 registered under sections 406, 407, 413 and 34 P.P.C. at the Shah Latif police station in Karachi. Earlier, his application seeking bail was dismissed on 22.12.2022 by the learned 5<sup>th</sup> Additional Sessions Judge, Malir.

2. The aforementioned F.I.R. was registered on 21.08.2022 on the complaint of one Mohammad Saleem Iqbal. Saleem reported that he works as a Supervisor in an entity named HRB Company. On 13.08.2022 an oil tanker owed by the company with Abdul Sattar (the applicant) as its main driver and Dildar Ahmed as the secondary driver loaded 48,000 liters of petrol from the Hascol oil depot. The tanker had headed for Machki in Punjab. On 17.08.2022 the company was informed that the tanker never reached its destination. All efforts to contact the 2 drivers were in vain.

3. Initial police investigation failed to reveal any clue to the theft hence on 30.08.2022 the investigating officer recommended disposal of the case in A Class. The recommendation was accepted by the learned magistrate. Subsequently, the complainant recorded a further statement in which he said that he suspected the 2 drivers of the tanker along with 8 other people, all of whom were identified by the complainant in his statement, as being the culprits of the theft. The police gathered evidence which seemed to suggest that both Abdul Sattar and Dildar had made some lavish

spending soon after the incident. The lost tanker was found through the efforts of the complainant. The police in the meantime carried out raids in the Province of Punjab and succeeded in arresting the applicant. The applicant then disclosed to the police the entire modus operandi used by him and his co-accused Dildar. Dildar, according to the applicant, had off – loaded petrol of a volume that filled 8 drums and had then left the 8 drums in a shack near the highway whereas the rest of the tanker was taken to Ghotki where the petrol was sold to 3 men available. The empty tanker after its wheels had been taken off, was left abandoned in Ghotki. On the disclosures made by the applicant, the police recovered the drums in which petrol had been filled.

4. Learned counsel for the applicant has argued that the applicant is innocent and has been falsely framed in this case. According to him, co-accused Dildar who seemingly had a bigger role to play in the crime than the applicant had been let off by the police; there was a 7 day delay in the lodging of the F.I.R.; that the complainant himself had purchased a car and if he had been robbed of a tanker why did he do so; recovery of the petrol is delayed and finally that the applicant has been in jail for 5 months. To the contrary the learned Addl.P.G. and the learned counsel for the complainant supported the impugned order and said that the receipts issued by Hascol at the time the petrol was loaded were all signed by the applicant. I have heard the learned counsels. My observations and findings are as follows.

5. It appears that the learned counsel's argument that Dildar has been let off by the police is incorrect. Dildar is too date an absconder, and as the learned Addl.P.G. explained, a couple of raids have been initiated by the police to arrest him but each time a law and order situation is created by Dildar's men in Punjab which prevents the police from arresting him.

6. In the circumstances of the case, delay in lodging the F.I.R. does not appear unusual or caused as a consequence of the complainant manipulating the true facts. If at all the delay will have any impact on the prosecution case is a question best left to be answered by the learned trial

court after it has had an opportunity to review the evidence produced before it.

7. At this preliminary stage, I have also taken into account the fact that the confession made by the applicant to the police after his arrest which subsequently led to the recovery of some of the stolen petrol is in itself a circumstance that appears relevant at this stage and opens up the possibility of the admissibility of the extra-judicial confession made.

8. No ill-will or malafide was argued by the learned counsel for the applicant and as a matter of fact none is borne out from the record.

9. While the punishment of offences under section 406 and 407 P.P.C. falls within the non-prohibitory clause of section 497 Cr.P.C., punishment for an offence under section 413 P.P.C. may very well fall within the prohibitory clause. Be that as it may, after hearing the difficulty that the police has had in effecting the applicant's arrest and is still finding it difficult to arrest Dildar, it appears that there is a real threat of the applicant absconding if admitted to bail.

10. It appears that the prosecution is in possession of sufficient material to establish a nexus of the applicant with the crime complained of. Whether or not he is guilty of the offence will be decided by the learned trial court; at this stage however, for the reasons given above, I do not find merit in his application. Application stands dismissed.

JUDGE