

IN THE HIGH COURT OF SINDH, KARACHI  
Criminal Bail Application No. 971 of 2023

Applicant : Babar Ali s/o. Dilber Ali, through  
Mr. Shoukat Ali Bugti, advocate

Respondent : The State, through Ms. Rahat Ehsan,  
Additional Prosecutor General.

Complainant : Muhammad Imran s/o. Muhammad  
Siddique (*Nemo*)

Date of hearing : 15.06.2023  
Date of order : 15.06.2023  
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**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Through instant criminal bail application applicant/accused Babar Ali s/o. Dilber Ali seeks post-arrest bail in Crime No. 932/2022, registered at P.S. Gulshan-e-Iqbal, Karachi under sections 397, 34, P.P.C. His earlier application for the same relief bearing No. 712/2023 was heard and dismissed by the Court of III-Additional Sessions Judge, Karachi-East vide order, dated 08.03.2023.

2. Precisely, the case of the prosecution as unfolded in the F.I.R. is that on 22.11.2023 at about 1325 hours near Bungalow No.B-19, situated in Block-2, Gulshan-e-Iqbal, Karachi four unknown persons, duly armed with fire arm weapons, riding over three motor cycles robbed two mobile phones, purse containing CNIC, driving license, vaccination card and cash of Rs.1,400,000/- from the complainant party and ran away.

3. The learned counsel for the applicant has contended that the applicant is innocent and has falsely been implicated in this case; that no specific role has been attributed to the applicant in the commission of alleged offence and allegations against him are general in nature; that there is no any independent witnesses of the alleged incident; that nothing

incriminating has been recovered from possession or pointation of the applicant and the alleged crime weapon has been foisted upon him; that the applicant is behind the bars since day of his arrest i.e. 10.12.2022; however, the trial has yet not been concluded and the delay in trial is not on the part of the applicant; that the guilt of the applicant requires further inquiry entitling him for bail.

4. Conversely, learned Addl. P.G. has opposed this application on the grounds that the applicant has been identified by the complainant and witness Chaudhry Sabir Hussain in identification parade held before the concerned Judicial Magistrate; that sufficient evidence is available with the prosecution to connect the applicant with the commission of alleged offence; hence, he is not entitled to the concession of bail.

5. Heard, record perused.

6. After hearing the learned counsel for the applicant as well as learned Addl. P.G. and perusing material on the record, it appears that applicant and co-accused Mazhar Ali were arrested in Crime Nos. 965 and 966 of 2022, respectively, registered at P.S. Gulshan-e-Iqbal under section 23(i)A of Sindh Arms Act, 2013, who during interrogation disclosed their involvement in the instant case alongwith co-accused Sameer Khan, Ali Gul, Aijaz Rahu and Jatoi, whereafter applicant and co-accused Mazhar Ali were produced before concerned Judicial Magistrate for Identification Teste, where complainant and witness Chaudhry Sabir Hussain identified them as accused persons involved in the instant case. The applicant has not alleged any motive against the complainant for implicating him falsely in the instant case. No doubt, offence under Section 397, P.P.C. being

carrying punishment with imprisonment for not less than seven (07) years does not fall within the prohibitory clause of section 497, Cr.P.C. and there is no cavil to the proposition that the Court while hearing a bail application is not to keep in view the maximum sentence provided by the Statute for the charged offence but the one which is likely to be entailed; however, in such like cases, the accused cannot claim bail as a matter of right. So far non-association of a witness is concerned; people collected at the scene abstain to assist the law, which is a usual conduct symptomatic of societal apathy towards civic responsibilities.

7. It may be observed that the offences like robbery/dacoity are frequently reported to have been committed without any restriction in urban and rural areas, which are not only creating scare among the people but ruining the safety of the life and property of law abiding citizens and also generating sense of insecurity amongst public at large.

8. From the tentative assessment of the evidence on record, it appears that the prosecution has sufficient evidence against the applicant to connect him with the commission of alleged offence; therefore, he is not entitled to concession of bail; hence, I reject this criminal bail application.

9. Needless to mention here that the observations made hereinabove by this Court are tentative in nature and the same shall not influence the trial Court while deciding the case of applicant on merit.

10. Above are the reasons of my short order dated 15.06.2023.

JUDGE