

IN THE HIGH COURT OF SINDH KARACHI

CRL. BAIL APPLICATION NO. 2293 OF 2023

Applicant : Sajid son of Akhtar,
through Mr. Hashmat Khalid,
Advocate

Respondent : The State
through Mr. Muhammad Iqbal
Awan, Additional Prosecutor
General Sindh along with
Complainant Muhammad Adnan

Date of hearing : 1st November 2023

.....

ORDER

Omar Sial, J. Mohammad Adnan owned an Alto vehicle and was a member of the InDriver network. InDriver is a ride-hailing application that enables users and drivers on the platform to negotiate a fare they're both comfortable with. At night on 23.08.2023, the services of Adnan and his vehicle were engaged by a customer through InDrive. Three men once boarded the car, pulled out pistols, robbed Adnan of all his valuables and also took his car away. F.I.R. No. 959 of 2023 was registered under sections 382 and 34 P.P.C. at the Malir police station on 28.08.2023.

2. The applicant, Sajid, was arrested for another crime and, during interrogation, confessed to being one of the three persons who had robbed Adnan. Sajid sought bail from the learned Sessions

Judge, Malir; however, his prayer was dismissed on 21.09.2023. He has now approached this court with the same prayer.

3. Mr. Hashmat Khalid learned counsel appearing for the applicant has argued that the F.I.R. was delayed by five days and that no recovery has been effected from the applicant. He also argued that no identification prayer was held for Adnan to identify the applicant. On the contrary, the learned Additional Prosecutor General has supported the impugned order.

4. Mr. Khalid is correct as far as the three grounds which he has raised are concerned. The F.I.R. was delayed for five days, no recovery was affected, and no identification parade was held. The complainant, who was present, narrated the entire ordeal he had gone through on that unfortunate day. Upon a query from the Court regarding the applicant's identity, the complainant informed the Court that the investigating officer asked him twice to come for an identity parade, and even though he went both times, the identification parade could not occur. On the second occasion, he saw the face of the applicant when he was being taken back from court. Then, he identified the applicant as one of the persons and told the investigating officer the same.

5. On several occasions, this Court has pointed out in its orders that the police investigation in such cases leaves a lot to be desired. Courts have to decide cases by law, and when massive lacunas are created during an investigation, the perpetrators of justice go scot-free. Delays in lodging an F.I.R., although in many cases, such as the

present one, the police are informed in a timely fashion, non-holding of identification parades and the entire reliance being made on a person's extra-judicial confession without the investigator bothering to dig deeper, are all such lacunas. In the present case, it is solely because of the applicant's statement, which, on a tentative assessment, I have found to be confidence-inspiring at this initial stage, that I am not inclined to grant bail to the applicant. The impact of the grounds raised by the learned counsel for the applicant on the prosecution case will be determined after the learned court has had an opportunity to review the evidence collected. I am not inclined to give any concession to the applicant, at this preliminary stage, for the lacunas created in the case because of weak investigation.

6. The learned Additional Prosecutor General has informed me that Adnan's car has not been recovered yet; however, the police are continuing their work, and it has a lead that the car was disposed of in Sukkur. This lead which the police are working on reconciles with the dialogues which were exchanged between Adnan and the robbers before the robbery in which they told him that they had come from Sukkur.

7. Bail application is dismissed.

JUDGE