

## IN THE HIGH COURT OF SINDH AT KARACHI

**Crl. Bail Application No. 2567 of 2023**

**Crl. Bail Application No. 2325 of 2023**

Applicants : Muhammad Sajid, Muhammad Adil and Dr. Muhammad Saleem through M/s. Hashmat Khalid and Ghulam Asgher Khuhro, Advocates

Respondent : The State through Mr. Muhammad Iqbal Awan, Addl.P.G.

Date of hearing : 20<sup>th</sup> November, 2023

### **ORDER**

**Omar Sial, J:** Mohammad Adil and Mohammad Saleem (through Crl Bail App No. 2325 of 2023) has sought pre-arrest bail in crime number 529 of 2023 registered under sections 380 and 34 P.P.C. at the Sohrab Goth police station, whereas Mohammad Sajid (through Crl Bail App No. 2567 of 2023) has sought post arrest bail in the same crime. The learned 7<sup>th</sup> Additional Sessions Judge, Malir on 13.10.2023 and 30-10-2023 dismissed the applications seeking bail filed before that court.

2. The F.I.R. mentioned above was registered on 26.09.2023 on the complaint of Mehran Khan, who reported an offence which had occurred six days ago on 20.09.2023. Mehran recorded that he had closed his shop in the evening and when he opened his shop on 21.09.2023 he saw that 150 cylinders of his were missing together with Rs. 1.2 million rupees. The watchman told the complainant that at 11:00 p.m., an ex-employee Adil and his brother-in-law Saleem and two unknown persons had come and robbed the shop.

3. I have heard the learned counsel for the applicants and the learned Additional Prosecutor General. The complainant was served a notice but it

was reported that he has been arrested in a case arising out of F.I.R. No. 537 of 2023 registered under section 365-A P.P.C. at the AVCC police station in Garden, and therefore will not appear. My observations and findings are as follows.

4. I am rather surprised that a person would leave Rs. 1.2 million in cash in his shop when he closes up for the day and goes home. On the face of it, there were no security measures in place. The watchman was also that of the market committee where the shop was situated. On a tentative assessment, it appears to be an F.I.R. filed maliciously. The learned trial court will however be the best judge of it when it has had an opportunity to review evidence. What modus operandi was used to break in to the shop of the complainant is not evident. Whether or not the complainant was even in possession of such a large number of cylinders aggregating a value of Rs. 4 million, is also not evident. How did the accused take away 150 gas cylinders without anybody noticing is also not evident. No description or inventory details are on record. The learned Additional Prosecutor General has read out the section 161 statement of the watchman, which apart from being recorded late, does not even contain the names of any of the accused. There are other discrepancies between the details in the F.I.R. and in the section 161 Cr.P.C. of the watchman, however, I have not highlighted those. The F.I.R. was registered six days after the incident and there is no plausible explanation for the delay at the moment. Upon a tentative assessment, malafide seems to be apparent on the face of the record.

5. The case against the accused is one of further inquiry. The interim pre-arrest bail granted to Mohammad Adil and Mohammad Saleem is confirmed on the same terms and conditions whereas Mohammad Sajid is admitted to post arrest bail against a surety of Rs. 50,000 and a P.R. Bond in the like amount to the satisfaction of the learned trial court.

JUDGE