

# IN THE HIGH COURT OF SINDH AT KARACHI

## Crl. Bail Application No. 2444 of 2023

Applicant : Muzaffar Ali @ Babu  
through Mr. Imtiaz Hussain Bhutto, Advocate

Respondent : The State  
through Mr. Muhammad Iqbal Awan, Addl.P.G.  
a/w ASI Muhammad Khalil

Date of hearing : 22<sup>nd</sup> November, 2023

### ORDER

**OMAR SIAL, J.**: Muzaffar Ali alias Babu has sought post-arrest bail in crime number 142 of 2023 registered under sections 397 and 34 P.P.C. at the Shah Faisal Colony police station in Karachi. His earlier bail plea was dismissed on 05.07.2023 by the learned 6<sup>th</sup> Additional Sessions Judge, Karachi East.

2. The F.I.R. mentioned above was registered on 26.03.2023 on information provided by Syed Masood Raza. Raza reported that on 25.03.2023, while he was standing outside his house in the evening, three persons on a motorcycle came there and, by showing him pistols, robbed him of his mobile phone and AirPods.

3. I have heard the learned counsel for the applicant and the learned Additional Prosecutor General. The complainant was issued a notice, but did not effect an appearance. Learned counsel for the applicant has professed complete innocence and stressed that the F.I.R. was registered against unknown persons. The learned Additional Prosecutor General has wholeheartedly supported the impugned order.

4. The record shows that the applicant was arrested for crime number 203 of 2023 (under sections 353, 324 and 34 P.P.C.) when he also possessed a few mobile phones. One of the mobile phones recovered was

the phone snatched from Syed Masood Raza, the complainant of the present case. Following his arrest and recovery of the mobile phone, an identification parade was held in which Syed Masood Raza identified the applicant as being one of the persons who had robbed him. However, learned counsel for the applicant argued that the identification parade was not held correctly and that Masood Raza had seen the applicant before the identification. To explore the propriety of the identification parade at this bail stage may not be appropriate as it is tantamount to a deeper analysis of evidence. Learned counsel struggled to explain what gripe Syed Masood Raza, a respectable TV anchor by profession, had to falsely identify and implicate the applicant.

5. Another aspect of this bail application is that the punishment for an offence under section 397, up to seven years imprisonment, falls within the non-prohibitory clause of section 497 Cr.P.C. Looking at the case holistically and keeping in mind the sense of insecurity which has arisen in the citizens of the city as a consequence of an exponential rise in street crime, together with the empirical evidence of street crime being repeated by offenders while on bail, I am inclined to look at this crime as falling within the exceptional category of cases as elaborated upon in *Tariq Bashir and 5 others vs The State* (PLD 1995 SC 34).

6. Bail application is dismissed.

UDGE