

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
Criminal Bail Application No.2628 of 2023

Date	Order with signature of Judge
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For hearing of bail application

**22.12.2023**

Qazi Inamullah advocate for the applicant / accused  
Mr. Talib Ali Memon, Assistant PG alongwith IO/PI Muhammad Shahzad  
Tanoli PS Airport Karachi  
Complainant Danish Jabbar present in person  
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The applicant Razaqat Ali seeks post-arrest bail in FIR No.814 of 2023 punishable for offences under Section 397, 353, 324, 186, 34 PPC PS Shahrah-e-Faisal Karachi. His earlier bail plea was declined by the learned IV-Additional Sessions Judge East Karachi on the premise that the applicant was arrested on the pointation of private victim Danish Jabbar and the defense counsel has failed to point out any enmity of such a person.

2. The accusation against the applicant is that on 05.10.2023, he along with his accomplices robbed the complainant Danish Jabbar of his valuables i.e Rs.2000/- and escaped but police chased him and in a police encounter the applicant/accused was arrested along with his accomplices and police recovered Pistol from him, such report of the incident was lodged by Danish Jabbar under Section 397, 353, 324, PPC.

3. It is contended by learned counsel for the applicant that the applicant has been falsely implicated in this case by the Police; there is apparent malafide on the part of the complainant and police. Learned counsel submitted that the applicant was taken away by a police official at 04:00 a.m. on 27.09.2023 from his house and such complaint was filed by his father with I.G. Police Sindh Portal. Thereafter written application was also moved when the brother of the accused was also picked by police and then C.P. No.D-4886/2023 was also filed before this Court and notice was issued vide order dated 11.10.2023. He further submitted that an inquiry is pending on the online application of the father of the accused. In support of his contentions, he relied upon the reported case laws 2017 SCMR 560 and PLD 2020 Sindh 727 and prayed for allowing the instant bail application.

4. On the other hand learned Assistant P.G. assisted by the complainant, has opposed the bail application on the ground that Karachi city is confronted with such a crime daily and the public is the major victim, thus, they cannot be left at the mercy of the culprits indulging in such like tactics, not authorized by the law and prayed for dismissal of the bail application.

5. I have heard learned counsel for the applicant and learned Assistant P.G., and have also examined the material available on record, particularly the police papers submitted by learned Addl. P.G.

6. In the present case, the facts and circumstances would show that the father of the applicant Ashiq Hussain presented his complaint on the portal of I.G. Police Sindh on 27.9.2023 at about 19:45.39 (available on page 47 of the Court file) wherein he alleged that on 27.9.2023 twenty-five to thirty police personnel, entered their house without any lawful authority and took away the applicant / accused, thereafter he moved an application to the SHO on 03.10.2023, but nothing was done compelling him to file the Constitutional Petition No.D-4886 of 2023 before this Court on 05.10.2023 and after that police shown his arrest in the present fake police encounter case though they were well aware of the factum that the father of the applicant / accused made complaint against the police officials to the I.G. Police Sindh much before the alleged incident, which prima facie show something fishy on the part of police. If this is the position of the case coupled with the complaint made by the family of the applicant / accused to the competent authority, this Court is of the tentative view that the matter requires further inquiry in terms of Section 497(2) Cr.P.C. Meanwhile, the I.G. Police Sindh shall look into the matter and if he finds the involvement of the police officials in the present case then stern action shall be taken, however, at the same time if he finds the applicant indulged in such sort of cases, he can move an application for cancellation of bail of the applicant in terms of Section 497(5) Cr.P.C.

7. In view of the above, the applicant / accused Razaqat Ali is admitted to post-arrest bail in FIR No.814 of 2023 punishable for offenses under Section 397, 353, 324, 186, 34 PPC registered at PS Shahrah-e-Faisal Karachi. subject to his furnishing solvent surety in the sum of Rs.100,000.- (Rupees one hundred thousand only) and a P.R. bond for the same amount to the satisfaction of the learned trial Court. The trial Court is directed to examine the complainant on the date of hearing so fixed by the trial Court within one month and if the charge is not framed, the same shall be framed. MIT-II is directed to seek compliance of this order within time.

8. It is clarified that the observations made herein are tentative which shall not prejudice the case of either party nor shall they influence the learned trial Court in any manner in deciding the case strictly on merits under law.

JUDGE

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