

IN THE HIGH COURT OF SINDH AT KARACHI

Cri. Bail Application No. 1926 of 2024

Applicant : Eman Hussain
through Mr. Sultan Ahmed, Advocate

Respondent : The State
through Ms. Robina Qadir,
Deputy Prosecutor General, Sindh

Date of hearing : 25th September, 2024

Date of short order: 25th September, 2024

Date of reasons : 25th September, 2024

ORDER

Omar Sial, J: Eman Hussain has sought post-arrest bail in crime number 1201 of 2023, registered under sections 397 and 34 P.P.C. at the Zaman Town police station. He had filed an application seeking bail before the learned 5th Additional Sessions Judge, Karachi East, who dismissed it on 25.03.2024.

2. The case against the applicant is that he, armed with a pistol, entered the shop of Altaf Hussain (the complainant) and forcibly snatched cash from him by putting him in fear of death. The applicant was subsequently arrested in another case when it was revealed that he was the same person who had also robbed Altaf Hussain.

3. Learned counsel for the applicant submitted that the case was lodged two days after the robbery and that the applicant was arrested in another case, so the prosecution's version cannot be relied upon. He added that the case against his client is one of further inquiry.

4. Altaf Hussain, the man who was robbed, was present in person, and although an identification parade was not held, he has seen the applicant and harbors no doubt that he was the person who had entered his shop to rob him while holding a pistol. According to Altaf, one of his accomplices had remained sitting on the get-away motorcycle outside the shop. The demeanor of and how Altaf Hussain narrated the whole episode, upon a tentative assessment, was confidence-inspiring.

5. Whether the two-day delay is material in the circumstances and whether the delay was caused so that the applicant could be framed in the case will have to be determined by the learned trial court after it has had an opportunity to review evidence at trial. At the moment, however, it does not appear that Altaf Hussain has any malafide in identifying the applicant as the robber.

6. Although the learned counsel has not raised the argument that the punishment for the offense with which the applicant is charged falls within the non-prohibitory, I nonetheless believe that I must give my reason for denying bail in a case that falls within the non-prohibitory clause. Incidents such as the current one have increased exponentially in Karachi. There appears to be a sense of fear in people roaming freely and in peace in the city. The provincial police are struggling to deal with this evil. Most of such cases also show that most robbers repeat the offense in such crimes. Indeed, in the present situation, this is at least the second crime for which the applicant has been nominated. The city's streets will be safer if the applicant remains incarcerated while the trial continues. I have looked at the foregoing as an exceptional reason, as envisaged by the Supreme Court in the Tariq Bashir and 5 others vs The State (PLD 1995 SC 34), to deny the applicant bail in a case where the punishment falls within the non-prohibitory clause.

7. Above are the reasons for my short order of earlier today.

JUDGE