

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No.2043 of 2024

Date: Order with signature(s) of the Judge(s)

For hearing of bail application.

3rd March 2025

Mr. Sheeraz Hussain Shar, advocate for Applicant.
Mr. Qamaruddin Nohri, Deputy Prosecutor General for State.

Jan Ali Junejo, J.-- The present Criminal Bail Application has been filed on behalf of the Applicant/Accused, who is seeking post-arrest bail in connection with a case stemming from FIR No.178 of 2024, registered at P.S. Steel Town, Karachi, under Sections 392/397/34, P.P.C. The Applicant/Accused initially approached the learned Sessions Court by filing Bail Application No. 2675 of 2024, which was subsequently dismissed by the Court of the learned VIIIth Additional Sessions Judge, Malir, Karachi, vide Order dated 12-06-2024.

2. The facts relevant to the present criminal bail application are as follows:

“On 22/03/2024, at around 2000 hours, complainant Muhammad Bilal, a rickshaw driver, was waiting for passengers near Al-Khidmat Hospital Phase-II, Gulshan-e-Hadeed, Karachi, when an unidentified man hired his rickshaw (No. AAB-9761, Maker Sazgar, Blue, Model 2023) for Rs. 800 to Ghaghar Phatak. After crossing the Sasui Toll Plaza, the passenger directed him towards Sobo Goth. Upon reaching MDA Road near Sobo Goth, the passenger made a phone call, after which a motorcycle carrying three armed individuals arrived. They held Bilal at gunpoint, forced him out of the

rickshaw, and robbed him of his Nokia phone, Rs. 1000 in cash, and the rickshaw before fleeing. Bilal then reported the incident at P.S. Steel Town, Karachi”.

3. The learned counsel for the Applicant has argued that the rule of consistency applies as co-accused Ghulam Mustafa has already been granted bail. He argued that the applicant/accused is innocent and has been falsely implicated with malafide intent by the police, having committed no offense. He contended that no recovery was made from him, rendering the police’s claims fabricated. He highlighted the lack of a specific role in the FIR, the nine-day delay in lodging it without explanation, and the absence of private witnesses during the recovery, all of which create serious doubts about the prosecution’s case. With the investigation complete and no prior convictions, he asserted that the applicant deserves bail and is willing to provide surety as required by the Court. Lastly, the learned counsel requested this Court to grant post-arrest bail under Section 497, Cr.P.C.

4. The learned Deputy Prosecutor General has argued that the rule of consistency does not automatically mandate bail, as each case must be decided on its own merits, and the circumstances of the co-accused's bail may differ significantly. He contends that the 9-day delay in lodging the FIR, while notable, does not negate the core allegations, and that investigations may reveal valid reasons for the delay. He emphasizes that the absence of recovered robbed items from the applicant does not absolve him of involvement, as criminal conspiracies often involve roles where not all participants possess the robbed goods. He argues that the applicant was correctly identified during the identification parade, which constitutes sufficient grounds for denying bail, and that the prosecution has the right to develop the case further. He

submits that the nature of the crime, involving armed robbery and violence, poses a serious threat to public safety, and releasing the applicant would undermine the administration of justice. Given these circumstances, the accused is not entitled to bail, as no exceptional grounds exist to warrant any leniency.

5. I have given due consideration to the arguments advanced by the learned counsel for the applicant/accused as well as the learned Additional Prosecutor General. Furthermore, I have meticulously examined the material available on record with utmost care and judicial prudence. Upon a thorough and meticulous scrutiny of the case record, it is evident that the co-accused, Ghulam Mustafa, had preferred Criminal Bail Application No.1467 of 2024 before this Court, which was allowed vide Order dated 15.07.2024. The role ascribed to the present Applicant is materially distinguishable from that of the co-accused and does not stand on the same footing. It is a matter of record that while the co-accused, Ghulam Mustafa, was not subjected to an identification parade, the present Applicant was duly identified by the Complainant during a judicial identification parade. Furthermore, this Court has rendered observations in the following terms:

“During the investigation co-accused was identified by the complainant however the applicant was not forwarded for identification parade, the reason that the complainant pointed out to the investigating officer about the arrest of the applicant in another crime, this is hardly a ground to accept such version of the learned prosecutor for the simple reason that applicant was not nominated in the FIR in such situation, holding of identification test would necessary in cases where names of the culprits were not given in the FIR. Holding such a test was not only a check against fake implications but

was a good piece of evidence against genuine culprits. Holding of identification test, could not be dispensed with simply because the accused, who had already committed the robbery, had been subsequently found in possession of robbed articles"

6. It is a matter of record that the Applicant has neither challenged the judicial identification parade conducted by the learned Judicial Magistrate nor alleged any illegality or material irregularity in the procedure of the said identification parade. In view of these circumstances, there exists substantial and overwhelming evidence on record establishing a prima facie connection between the present Applicant and the commission of the alleged offence. In a similar factual matrix, the Hon'ble Supreme Court, in the case of *Mehboob-ul-Hassan v. The State* (1995 SCMR 1013), was pleased to uphold the Order refusing bail to the accused who had been correctly identified in the identification parade. Likewise, in the case of *Muhammad Shoaib v. The State* (2018 YLR Note 120), this Court held as follows: "After his arrest identification parade of the applicant was held through PW Muhammad Ali, who correctly identified the applicant during identification parade and stated that on 20.10.2015 at about 9:30 the accused was coming from back door of the house of Chaudhry Akhtar at PIB Colony, which is in corroboration with the statement of said PW Muhammad Ali recorded under section 161, Cr.P.C. wherein he has stated that he has seen the accused while escaping from back door of the house of the complainant". It was further observed that: "So far the contention of learned counsel for the applicant that the co-accused has been granted bail on the ground of plea of alibi therefore, the applicant is entitled for grant of bail on the rule of consistency is concerned, in my humble opinion is devoid of any force for the simple reason that in criminal administration of justice, the case of each and every accused is different from the case of co-accused and it could not be said that the

case of one accused is identical to the case of the other accused. In this case sufficient material is available against the applicant, which prima facie connects him in commission of the offence". Thus, the Applicant is not entitled for grant of bail at this stage.

7. In light of the foregoing reasons, the present bail application, being devoid of substantive merit, is hereby dismissed. It is further clarified that the observations made herein are confined solely to the adjudication of this bail application and shall not prejudice or influence the merits of the case during the trial proceedings.

JUDGE