

ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI.

Cr. Bail Appl No.1042 of 2018

Date	Order with signature of Judge
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For hearing of Bail Application.

17.08.2018.

Mr. Muhammad Ayub, Advocate for Applicant
Mr. Ali Haider Salim, DPG

By this order, we dispose of this bail application, whereby applicant is seeking post arrest bail in case bearing crime No.229/2018, U/s 392, 353, 34 PPC, R/W 7 ATA, registered with Police Station Ferozabad, Karachi.

As per brief facts of the case, the applicant was arrested on **18.05.2018** along with his accomplice Muhammad Shoaib while committing the robbery from the complainant, opposite Rania Motors Show Room, Shahrah-e-Quaideen, Block2, PECHS, Karachi at about 2100 hours after an alleged encounter with the police. However, their third companion namely Muhammad Asghar allegedly escaped from the spot. During search the robbed articles were recovered from the accused besides an unlicensed pistol from each accused. Such memo was prepared and the accused were brought at Police Station, where different cases including the present one was registered against them.

Learned defence counsel has argued that applicant is innocent and has been falsely implicated in this case; that this is a case of ineffective firing in which no one has been injured; that no robbed articles were recovered from the applicant; that FSL report is contradictory viz.a.viz. the role of the applicant as such the case against him requires further inquiry. In support of his contentions, learned counsel has relied upon the case law reported in *2010 PLD SC 470 and 2018 SC SCMR 772*.

On the other hand, learned DPG has opposed grant of bail to the applicant on the grounds that applicant was arrested from the spot, the robbed articles were recovered from them and the FSL report in respect of the weapon recovered from the applicant is in positive. He further states that there is *prima facie* strong evidence against the applicant connecting him with the present offence.

We have considered submissions of the parties and perused the material available on record including the case law cited at the bar. We are of the view that *prima facie*, the applicant appears to be connected with the offence of robbery as he along with his accomplice namely Muhammad Shoaib was arrested by the police from the spot and during their search the robbed articles were recovered from them. Such recovery was witnessed not only by the complainant but another private person namely Hafiz Mohammed Haris. Besides, the applicant was also found armed with an unlicensed weapon regarding which a separate case has been registered against him. We do not, *prima facie* find any contradiction in FSL report qua recovery from the applicant to give benefit thereof to him. As such the applicant is not entitled to the concession of bail. Accordingly, this bail application is dismissed. However, we direct the trial court to expedite the trial and examine the complainant and the private witness within three months, whereafter the applicant would be at liberty to move a fresh bail application before the trial Court, which if filed, shall be decided on its own merits.

6. The bail application is disposed of in the above terms; the findings made hereinabove are tentative in nature and would not prejudice case of either party at trial.

J U D G E

J U D G E

Rafiq/P.A.