

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI

CrI. Bail Application No.366of 2025

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

For hearing of bail application.

20-03-2025

Mr. Abdul Wahid, advocate for Applicant/accused.
Mr. Qamaruddin Nohri, learned DPG.

Jan Ali Junejo, J.—This criminal bail application has been filed under Section 497 of the Code of Criminal Procedure, 1898, by the applicant/accused Ajay Kumar S/o. Karmo Mal, seeking post-arrest bail in FIR No. 477/2024 registered at P.S. Steel Town, Malir, Karachi under Sections 392, 397, and 34 PPC. The application arises out of the Impugned Order dated 16.01.2025 passed by the learned VIIIth Additional Sessions Judge, Malir, Karachi in Cr. Bail Application No. 76 of 2025, whereby the bail application of the applicant was dismissed.

3. Briefly, the facts of the prosecution Case are that the complainant, Deepak Kumar (son of Dolat Ram), lodged an FIR at P.S. Steel Town, Malir, Karachi, stating that on 12.07.2024 at around 3:45 PM, unknown armed individuals entered his residence, House No. A-1206, Gulshan-e-Hadeed, Phase-II, Malir, Karachi. At that time, his father, mother, and niece's son, Abay Kumar, were present at home. Two armed suspects held the family at gunpoint, confined

them to a room, and looted 10 tolas of gold jewelry and Rs. 4 million in cash by breaking the locks of four wardrobes. During the incident, Abay Kumar was made to open the door twice—first for Mahesh Kumar (Complainant’s brother-in-law), who was also confined, and then for the complainant’s grandmother, whom he warned about the robbers, prompting her to leave. The suspects then took Abay Kumar downstairs, used the complainant’s father’s Toyota Corolla (Reg. No. 023-BLU) to flee, later abandoning it on the National Highway and escaping in a white Suzuki Cultus. The complainant expressed suspicion over the involvement of Abay Kumar in the offence and sought legal action.

3. Learned counsel for the applicant argued that the applicant is innocent and has been falsely implicated due to a pre-existing dispute with the complainant. He contended that initially, the applicant was not nominated in the FIR and was exonerated in the first charge sheet recommending disposal under Class “A”. Only upon submission of the supplementary charge sheet was the applicant nominated for allegedly planning the crime. It is further submitted that the recovery is foisted and made five months after the incident, and no active or specific role of the applicant has been alleged in the commission of the offence. He emphasized that the applicant is a graduate with no prior criminal record, belongs to a respectable family, and his father is a member of the Pakistan Minority Council.

Counsel concluded that the case requires further inquiry and requested for grant of bail.

4. On the other hand, learned DPG appearing for the State opposed the bail application on the ground that the applicant has been identified by the complainant and recovery of Rs. 65,000/- was effected from him. He contended that the allegations are of serious nature involving armed robbery and the offence under Section 397 PPC is cognizable and non-bailable. He submitted that sufficient material is available connecting the accused with the commission of offence and prayed for dismissal of the bail application.

5. I have considered the arguments advanced by the learned counsel for the applicant and the learned DPG for the State and perused the record with their able assistance. The tentative assessment of the material on record reveals that the applicant was not named in the FIR. Initially, the police submitted a report recommending disposal under Class "A", reflecting no evidence against the applicant. It is only through the supplementary charge sheet that the applicant has been implicated on the allegation of planning the offence, with no direct participation in the robbery or use of any weapon. The recovery of Rs. 65,000/- allegedly from the applicant's possession is disputed and does not conclusively establish it to be part of the looted amount, particularly when no gold has been recovered and the complainant's financial position as a worker raises questions about possession of such large sums. It is a well-established

principle of law that, in the absence of identification of the allegedly robbed currency notes by the complainant, the recovery cannot be considered reliable. This legal position has been affirmed by the Honourable Supreme Court of Pakistan in the case of *Daniel Boyd (Muslim Name Saifullah) and another v. The State (1992 SCMR 196)*. Furthermore, the prosecution failed to present any direct or circumstantial evidence linking the appellants to the alleged robbery. Moreover, the incident occurred on 12.07.2024 and FIR was registered with unexplained delay on 24.07.2024. This delay further casts doubt over the credibility of the prosecution case at this stage. The version presented by the complainant also reflects internal inconsistencies, particularly the behavior of family members during and after the incident. In light of the above, the case against the applicant requires further inquiry within the meaning of Section 497(2), Cr.P.C., I am of the view that the applicant is entitled to the concession of bail.

6. In view of the foregoing, the applicant/accused Ajay Kumar S/o. Karmo Mal is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs. 100,000/- (Rupees One Hundred Thousand Only) and a Personal Recognizance (P.R.) bond in the like amount to the satisfaction of the learned trial Court. The observations made in this order are tentative in nature and shall not prejudice the case at trial. These are the reasons for short Order dated: 20-03-2025.

JUDGE