

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-42 of 2025

Applicant: Loung Son of Allah Rakhiyo Khoso through Mr. Nasrullah Khaskheli, Advocate.

Complainant: Zeeshanullah Son of Zamanullah through Mr. Muhammad Nawaz Panjotha, Advocate.

Respondent: The State through Ms. Rameshan Oad, A.P.G.

Date of hearing: 26.03.2025

Date of order: 26.03.2025

ORDER

Syed Fiaz ul Hassan Shah, J: Through instant bail application, above named applicant seeks his admission to post arrest bail in Crime No.268 of 2024 registered under section 397 PPC, with P.S Jamshoro. After the arrest applicant preferred his bail plea before the Court of Additional Sessions Judge-II, Jamshoro vide Criminal Bail Application No.1348 of 2024 (Re-Loung Vs. The State) and same was dismissed vide impugned order dated 14.12.2024; hence, instant bail application has been maintained.

2. Since the facts of prosecution case are already mentioned in F.I.R as well as impugned order passed by the Additional Sessions Judge-II, Jamshoro, therefore, there is no need to reproduce the same.

3. It is, *inter alia*, contended by the counsel for the applicant that no name or description of the applicant is mentioned in FIR; that applicant / accused has been booked in further statement of complainant recorded under section 162 Cr.P.C after considerable delay who is even disable person, as such, he is entitled for concession of bail.

4. On the other hand, the complainant's counsel argued that the FIR was lodged promptly. As for the matter of involving the applicant / accused through a further statement under Section 162 Cr.P.C., the complainant acted fairly by naming the accused

only after obtaining knowledge of his involvement even no animosity against him is alleged. The learned counsel further contended that the plea raised by the applicant's counsel regarding the applicant's hospitalization remains unsubstantiated, as no medical record has been produced to support such a contention. Furthermore, the prosecution possesses the applicant's CRO, which reflects his involvement in two criminal cases. It is also pertinent to mention that the stolen articles are valued approximately between five to six lakh rupees. In view of these arguments, the applicant is not entitled to the concession of bail.

5. The learned APG opposed the bail application in view of the arguments advanced by counsel for complainant and prayed for its dismissal.

6. I have heard the learned counsel for parties and perused the record.

7. Admittedly, the name and description of the applicant were not mentioned in the FIR, and his involvement was subsequently alleged through the complainant's further statement recorded under Section 162 Cr.P.C. after considerable delay and the element of consultation cannot rule out. The circumstances and evidentiary value of such delayed in nomination is yet to be determined by trial court after recording evidence. Furthermore, Section 397 PPC pertains to robbery or dacoity with an attempt to cause death or grievous hurt, which falls within the non-prohibitory clause of Section 497 Cr.P.C. However, the subsequent implication of the applicant without any independent corroborative material raises doubts regarding the prosecution's version, entitling the applicant to the concession of bail on the ground of further inquiry. In my tentative assessment, even the challan has been submitted before the Trial Court and applicant is not required for investigation. It is not case of the prosecution that applicant if he is released on bail he will temper or destroy the evidence nor prosecution has apprehension that applicant threatens the prosecutions' witnesses. In view of the above, the learned counsel for the applicant made out a case for grant of bail, therefore, the bail application was **allowed**. These are the reasons of short order dated 26.03.2025.

8. Needless to say that any finding given or the observations recorded herein-above, it is only for the purpose of deciding this bail application, which will not affect the merits of case before the Trial Court in any manner and the Trial Court will try the case without being influenced from any observation.

J U D G E

