

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2142 of 2024

Applicant : Javed son of Imamuddin
through Mr. Ali Ahmed Chandio, Advocate.

Respondent : The State
Ms. Rubina Qadiq, A.P.G.

Date of hearing : 25.03.2025.

Date of order : 25.03.2025.

ORDER

KHALID HUSSAIN SHAHANI, J -- The applicant/accused has filed the present bail application seeking pre-arrest bail in case bearing crime No.216/2024, offence u/s 397, 392, and 34 PPC of Police Station Surjani Town, Karachi. His earlier plea for bail was rejected by the learned XIth Additional Sessions Judge, Karachi West, through order dated 07.08.2024

2. The brief facts, as stated in the prosecution's case, are that the complainant was on his way home and reached at Roza Goth in Surjani Town, Karachi. At that point, three unidentified individuals riding a 125 motorcycle allegedly approached him, held him at gunpoint, and robbed him of a Vigo Tel keypad mobile phone and Rs.8,000 in cash before fleeing the scene. Consequent upon; case was registered *inter-alia* on above facts.

3. According to the learned counsel, the applicant is innocent and has been falsely implicated. He contended that no identification parade has ever been conducted and the arrest of the applicant took place merely on the complainant's pointing out on 19.02.2024. He further argued that the alleged recovery of the mobile phone was falsely attributed to the applicant at the time of his arrest.

4. On the other hand, the learned Additional Prosecutor General strongly opposed the grant of bail, primarily on the ground that recovery was made from the applicant. However, he acknowledged that no identification parade of the applicant had been conducted.

5. The record indicates that the alleged incident took place on 15.02.2024, but the FIR was lodged after a delay of two days on 17.02.2024, without any reasonable explanation this delay adversely

affects the prosecution's case. The FIR neither mentions the applicant's name nor provides his physical description. Surprisingly, the applicant was shown arrested on 19.02.2024 based solely on the complainant's identification. Given these circumstances, the applicant's case at best falls under Section 411 PPC, which carries a maximum sentence of three years. Although Section 397 PPC prescribes a minimum punishment of seven years, this case does not fall within the prohibitory clause of Section 497(1) Cr.P.C. It is a settled legal principle that in such cases, the grant of bail is the rule and refusal is the exception. Furthermore, as the investigation has concluded, the applicant is no longer required for further inquiry.

6. In view of the above circumstances, the applicant has established a case for further inquiry as contemplated under Section 497(ii) Cr.P.C. Therefore, he is granted bail, subject to furnishing a solvent surety in the sum of Rs.100,000/- (Rupees One Lac only) along with a personal recognizance bond in the same amount to the satisfaction of the learned trial Court.

7. The observations made hereinabove are tentative in nature and shall not prejudice the trial Court in deciding the matter on merits.

JUDGE

Shahbaz/PA