

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Bail Application No.70 of 2025

Applicant : Himmat Ali s/o Gulab Khan  
through Mr. Abdul Haleem Burriro Advocate

Respondent : The State  
through Ms. Rubina Qadir Addl. P.G. Sindh.

Date of hearing : 25.03.2025

Date of order : 28.03.2025

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.** – Applicant Himmat Ali seeks post-arrest bail in case bearing crime No.722/2024, offence u/s 397/34 PPC of P.S. Awami Colony. His bail plea was declined by the learned IInd Additional Sessions Judge Karachi East vide order dated 20.12.2024.

2. According to the prosecution, on 21.10.2024, the complainant was returning home, at around 2215 hours, he was intercepted by two unidentified individuals near Saima Luxuries Home, Bagh Korangi. Allegedly, at gunpoint, they robbed him of Rs.1500 and a copy of his CNIC, while he managed to throw his mobile phone into nearby bushes. Consequently, a case was registered based on these facts.

3. Learned counsel submitted, the applicant has been falsely implicated due to personal enmity. He pointed out that neither the name nor the description/hullia of the applicant was mentioned in the FIR. Moreover, no recovery was made from him, and he was picked up from his house and shown to be arrested on 22.10.2024. He was then produced for an identification parade test with an undue delay of two days on 26.10.2024, which is detrimental to the prosecution's case. The memo of the identification parade does not assign any specific role to the applicant, and discrepancies in the description of the weapons (rifle and pistol) further cast doubts on the complainant's account. The counsel emphasized that since the offence carries a lesser punishment, the case does not fall under the prohibitory clause and prayed for bail.

4. Conversely, the learned Addl. P.G. opposed the bail application, contending that the applicant was duly identified in the identification parade. However, he reluctantly agreed that the minimum punishment under Section 392 PPC is three years, which should be taken into account while considering the bail application and ingredients of Section 397 PPC lacking.

5. The FIR does not mention the name or description/hullia of the applicant or the unidentified individuals allegedly involved in the robbery of Rs.1500 and a copy of the CNIC. No recovery of the stolen amount was made. The only piece of evidence against the applicant is his identification by the complainant during the identification parade. However, the identification parade memo assigns no specific role to the applicant. Additionally, while the prosecution claims that one of the accused was armed with a rifle, the complainant mentioned during the identification parade that the unidentified individuals had pistols. It is a settled principle that while considering bail, lesser punishment is to be taken into account. At the most, Section 392 PPC applies to the facts of the case, which carries a lesser punishment of three years. Therefore, the applicant's case does not fall under the prohibitory clause of Section 497(1) Cr.P.C. Bail in such cases is the rule, and its refusal is the exception. The case has already been challaned, and the applicant is no longer required for investigation.

7. Given the above, the applicant has succeeded to make out a case for further inquiry as envisaged under Section 497(ii) Cr.P.C. Accordingly, he is admitted to bail, subject to furnishing a solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and a P.R. bond in the like amount to the satisfaction of the learned trial Court.

8. The above observations are tentative and shall not prejudice the case of either party during the trial.

**J U D G E**

Shahbaz/PA