

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.193 of 2025

Applicant : Sohail Khan son of Aurangzaib
through Mr. Kamran Ali, Advocate

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

Date of hearing : 28.03.2025.

Date of order : 05.04.2025.

ORDER

KHALID HUSSAIN SHAHANI, J -- The applicant, Sohail Khan, seeks post-arrest bail in a case bearing crime No. 531/2024, offence u/s 392, 397, and 34 read with Section 395 PPC of Police Station Ittehad Town, Karachi. His previous application for bail was declined by the learned Additional Sessions Judge-IV, Karachi West, vide order dated 05.11.2024.

2. The concise facts of the case are that on 03.10.2024, the complainant, Akmain Zada, along with his Munshi, Riaz Khan, was carrying a bag containing Rs. 4,060,000 in cash and a cheque leaf worth Rs. 2,700,000 while traveling by car towards Ittehad Town, Naval Colony. Their owner, Niaz Zameen, was following in another vehicle. At about 1425 hours, near Misal Khan Cement Depot on Ittehad Road, four armed assailants on two motorcycles intercepted them at gunpoint. The robbers forcibly took the bag of cash, the cheque leaf, and Riaz Khan's mobile phone. During the incident, Niaz Zameen fired a shot at the fleeing culprits; however, his pistol jammed and he was unable to fire again. One of the suspects fired back before escaping. Consequently, an FIR was lodged based on these allegations.

3. Learned counsel argued that the applicant is innocent and has been falsely implicated due to malicious intent and ulterior motives. He submitted that the applicant was neither named in the FIR nor was any physical description of the culprits provided. The applicant was arrested on 20.10.2024 and presented for an identification parade after an unexplained delay of two days. Even then, no specific role was attributed to him. Furthermore, the counsel emphasized that no recovery of the stolen amount or cheque leaf was made from the applicant. He also

pointed out contradictions in the complainant's statement regarding the type of weapon used, rifle versus pistol, casting further doubt on the credibility of the version given. Consequently, he urged the court to grant bail, relying on precedents including PLD 1996 Karachi 246 (Re: Kirir v. The State) and 1998 P.Cr.L.J 45 (Karachi) (Re: Zahid & Ors v. The State).

4. The learned Additional Prosecutor General stated that although notices were served to the complainant, he did not appear before the court. Nonetheless, representing the State, she opposed the bail application, asserting that the applicant bore no known hostility toward either the complainant or the police that could suggest false implication. She maintained that ample evidence exists linking the applicant to the offense. Moreover, given the gravity of the offense and its societal impact, she warned of a strong possibility that the accused may reoffend if released. Therefore, she requested the court to deny bail.

5. A preliminary review of the case file reveals that the incident is alleged to have occurred on 03.10.2024, yet it was reported to the police with an unusual delay of one day, on 04.10.2024. The FIR neither names any of the accused nor provides a description of them. The applicant was taken into custody under Section 54 Cr.P.C. on 20.10.2024 and was presented for an identification parade on 22.10.2024, two days post-arrest. Examination of the identification memo indicates that the applicant was not attributed any specific role except for being identified as a motorcycle rider. Additionally, no stolen property has been recovered from the applicant during the course of the investigation.

6. It is a well-established legal principle that, at the bail stage, the court must consider the lesser prescribed punishment. In this case, Section 397 PPC provides a punishment of not less than seven years, which does not attract the prohibitory clause of Section 497(1) Cr.P.C. Thus, granting bail is the general rule, while its refusal is the exception. Moreover, the challan has been submitted and the applicant is no longer needed for custodial investigation.

7. Considering the foregoing circumstances, the applicant has made out a case of further inquiry within the meaning of Section 497(ii) Cr.P.C. Consequently, he is admitted to post-arrest bail, subject to furnishing a solvent surety in the sum of Rs.100,000/- (Rupees One Lac only), along with a personal bond in the same amount to the satisfaction of the learned trial Court.

8. It is clarified that the observations made herein are tentative and shall not affect the merits of the case during the course of trial.

J U D G E

shahbaz