

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
Cr. Bail Application No.254 of 2015

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DATE            ORDER WITH SIGNATURE(S) OF JUDGE(S)  
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For hearing  
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**03.06.2015**

Mr. S. Farooq A. Sherazi, Advocate files power on behalf of the applicant Muhammad Akbar.  
Mr. Zafar Ahmed, D.P.G. Sindh  
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Through the instant bail application, applicant/accused Muhammad Akbar, son of Jamal Din @ Jumma Khan, seeks bail after arrest in FIR No.194/2014, registered at police station Steel Town, Karachi under Sections 392/34 PPC.

2. Brief facts of the prosecution case as disclosed in the FIR are that on 21.07.2014 at about 07:30 complainant was busy in Afftari alongwith his family, while the bell of the house rang, his son opened the door, one person was standing at the wall who was holding pistol in hand, due to his fear his son opened the door, then four accused persons who were armed with T.T pistol entered into house, they tied the hands of his son, they started searching of the whole house, they drew from the cupboard gold ornaments 06 bangles weighing 6 tola, one gold set weighting 03 tola, 03 gold ladies fingers rings weighing 02 tola, three gold biscuits weighing about 30 grams, cash amount of Rs.15,000/-. All accused persons were young and wearing shalwar kameez. Out of them 02 were in sleepers and two wer with pishowri chapel. Out of them 03 were sturdy and their height was approximately 05 feet & 3 inches while forth was lean, whitish complexion and was tall. Complainant and his son can identify them if they

came before them. they have snatched gold ornaments and cash amount on gun point.

3. The applicant/accused approached the learned II Additional Sessions Judge, Malir, Karachi, for post arrest bail, which was declined vide order dated 09.02.2015. Thereafter, the applicant approached this Court for grant of post arrest bail.

4. Learned counsel for the applicant contended that the applicant is innocent, no offence as alleged or otherwise has been committed by him, he has been involved in this false case in collusion with the police for ulterior motive. Nothing was recovered from the present accused and no recovery has been made no identification parade has been held. None of private person was associated as witness nor anyone of them was made as mashir of recovery/arrest. No specific role has been assigned to the present applicant. He lastly argued that applicant is in custody but not a single witness has been examined by the prosecution and the delay has not been attributed to the applicant, as such, concession of bail may be granted to the applicant. In support of his contentions, learned counsel for the applicant has relied upon **2004 Pakistan Criminal Law Journal 1431** Atta Muhammad ..Vs.. The State and **2005 Pakistan Criminal Law Journal 531** Muhammad Kazim ..Vs.. The State.

5. Learned Additional Prosecutor General Sindh argued that since the applicant has committed a heinous offence as such he is not entitled to concession of bail. He opposed the bail application.

6. After hearing the learned counsel for the parties and going through the record, it has been noticed that applicant/accused was arrested by the

police and no recovery has been made and no identification parade has been held despite that the prosecution has miserably failed to associate them as witness or mashir of arrest/recovery, which creates doubt in the prosecution story. No specific role has been assigned to the applicant/accused by the prosecution. At the bail stage, tentative assessment of material collected during investigation is to be made. Benefit of doubt even for limited purpose of bail is to be extended to the applicant/accused in the circumstances of case. Applicant/accused is no more required for investigation purpose. Applicant/accused is in jail yet charge has not been framed.

7. For the above stated reasons, and the case law cited at the bar the applicant *prima facie*, has made out a case for concession of bail as neither he was nominated nor he has been identified by the complainant. This application is allowed, the applicant/accused Muhammad Akbar son of Jamal Din & Jumma Khan, subject to his furnishing solvent surety in the sum of Rs.3,00,000/- (*Rupees Three Hundred Thousand*) and P.R bond in the like amount to the satisfaction of trial Court.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant/accused on merits.

JUDGE

SM