

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 1030 of 2025

Applicant : Adeel @ Kango son of Ushaque Ali,
Through Mr. Muhammad Hanif Baloch, Advocate

Respondent : The State
through Ms. Rahat Ehsan, Addl. P.G.

Date of hearing : 14.05.2025

Date of order : 14.05.2025

ORDER

KHALID HUSSAIN SHAHANI, J. –The applicant, Adeel @ Kango, seeks post-arrest bail in a case bearing crime No. 81/2025 registered under Section 397/34 PPC at Police Station Bin Qasim, Karachi. His bail application was earlier declined by the learned Additional Sessions Judge-VIII, Malir, Karachi, vide order dated 28.03.2025.

2. Briefly stated, the prosecution case is that on 22.02.2025, at about 08:35 a.m., the complainant, accompanied by Amanullah, was travelling on a black Honda 125 motorcycle bearing registration number RNN-1227. Upon reaching Eido Goth near a kiriyana store, two unknown armed individuals intercepted them, threatened them at gunpoint, and forcibly snatched the motorcycle before fleeing towards Township. The FIR was subsequently lodged by the complainant, who claimed he could identify the culprits if brought before him.

3. Learned counsel for the applicant contended that the applicant has been falsely implicated in the instant case due to mala fide on the part of the police. It was further urged that the recovery shown from the applicant is fictitious and planted. The learned counsel emphasized that the ingredients of Section 397 PPC, which relate to causing grievous hurt or using a deadly weapon during the commission of robbery, are conspicuously lacking, and the punishment prescribed under the remaining applicable section does not fall within the prohibitory clause of Section 497(1) Cr.P.C. Hence, the applicant is entitled to the concession of bail.

4. Conversely, the learned Additional Prosecutor General opposed the grant of bail but conceded that the FIR neither contains the name nor any identifying feature (hullia) of the applicant. She also acknowledged that no test identification parade was conducted and that the applicability of

Section 397 PPC is not attracted in the absence of specific allegations as to use of violence or infliction of injury during the alleged robbery.

5. On tentative assessment of the material available on record, it appears that the name of the applicant does not find mention in the FIR. Furthermore, no identification parade was conducted before competent Court of law to link the applicant with the commission of the offence. The absence of any direct accusation or positive identification raises serious doubt with regard to the applicant's involvement. Additionally, the case has already been challaned and the applicant is no longer required for custodial investigation. It is well settled that while deciding bail applications, the nature of the offence, extent of involvement, possibility of further inquiry, and applicability of prohibitory clause under Section 497(1) Cr.P.C are to be carefully evaluated.

6. Bare reading of the FIR shows neither name, nor hulla / description of the unidentified individuals committing robbery appears therein, nor has identification parade test been held before competent court of law. It is settled principle that while deciding bail application, lesser punishment provided for the offence is taken into account and minimum punishment provided for offence under Section 397 PPC is not less than seven years, as such the case does not fall within the ambit of prohibitory clause of Section 497(1) Cr.P.C. No overt act of violence or grievous hurt has been attributed to the applicant. In view of the foregoing, a case for *further inquiry* within the meaning of Section 497(2) Cr.P.C. is made out, entitling the applicant to the concession of bail as a matter of right.

7. Accordingly, the applicant Adeel @ Kango is admitted to post-arrest bail, subject to his furnishing a solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand only) and a Personal Recognizance (P.R.) bond in the like amount to the satisfaction of the learned trial Court.

8. It is clarified that the observations made herein are tentative in nature and shall not influence the outcome of the trial, which shall be decided strictly on the basis of evidence recorded before the trial Court.

JUDGE