IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2626 of 2025

Applicant	:	Murad, Through: M/s. Shah Imroze Khan and Faizah, Advocates
The State	:	The State Through Ms. Seema Zaidi, Additional Prosecutor General, Sindh
Date of hearing	:	02.12.2025
Date of Order	:	02.12.2025

O R D E R

Jan Ali Junejo, J:-- The Applicant, through the instant Criminal Bail Application, seeks the concession of post-arrest bail in case FIR No.155 of 2025 registered under Section 395, PPC at Police Station Surjani Town, Karachi. Earlier, the learned IV Additional District & Sessions Judge, West, Karachi, dismissed his bail plea vide order dated 27.05.2025. Being aggrieved, the Applicant has approached this Court.

2. The brief facts of the prosecution case, as narrated in FIR No.155 of 2025 registered under Section 395, PPC at Police Station Surjani Town, Karachi, are that on 05.02.2025 at about 04:00 a.m., seven unknown armed persons allegedly entered the house of the complainant, confined his family at gunpoint, and decamped with cash, gold ornaments, mobile phones, laptops and other valuables. The FIR was lodged against unknown persons without naming, describing, or assigning any specific role to the present Applicant.

Subsequently, the Applicant was arrested and implicated in the case, whereafter his post-arrest bail application was dismissed by the learned IV Additional District & Sessions Judge, West, Karachi, vide order dated 27.05.2025, which has given rise to the present application.

3. Learned counsel for the Applicant argues that the Applicant is innocent and has been falsely implicated in the present case with mala fide intentions; he contends that the Applicant is not named in the FIR and no role, description, or identifying feature has been attributed to him therein; he submits that no judicial identification parade was conducted despite the FIR being against unknown persons, and the alleged exposure of the Applicant to the complainant at the police station has irreparably tainted the prosecution case; he further contends that the belated nomination of the Applicant in the statement recorded under Section 164 Cr.P.C. amounts to a dishonest improvement, contradictory to the FIR; he argues that no recovery of looted property or weapon has been effected from the Applicant; he submits that the Applicant was earlier discharged in another robbery case due to non-identification; he further argues that the Investigating Officer has submitted challan in 'A' Class for want of evidence; he contends that the offence does not fall within the prohibitory clause of Section 497 Cr.P.C.; and he finally prays that, in view of these circumstances, the

case calls for further inquiry under Section 497(2) Cr.P.C., therefore the Applicant may be admitted to bail.

4. Conversely, learned Additional Prosecutor General Sindh opposes the grant of bail and contends that the Applicant is involved in a heinous offence of dacoity committed within the house of the complainant; she argues that the complainant has nominated the Applicant in his statement under Section 164 Cr.P.C. and sufficient material is available connecting him with the offence; she further contends that the offence is serious in nature, carries severe punishment, and the release of the Applicant on bail may result in his absconding or tampering with prosecution evidence; and she prays that the bail application be dismissed.

5. I have considered the arguments advanced by the learned counsel for the parties and examined the record with the tentative assessment mandated at the bail stage. The FIR in clear terms alleges the commission of robbery by seven *unknown* persons and does not disclose the name, parentage, address, role, facial features, height, body structure, or any other identifying particulars that could remotely connect the Applicant with the alleged offence. In cases of dacoity committed by masked or unidentified offenders, the complainant's earliest version, namely the FIR, constitutes the primary and most reliable source of identification. Where such earliest account is completely devoid of any identifying description,

any subsequent nomination of an accused becomes inherently weak and, in the absence of independent corroboration, legally unsafe. The record reveals that no such corroborative material is available. It is a well-settled principle laid down by the superior courts that where an accused is neither named in the FIR nor described therein, his belated nomination without a proper judicial identification parade gives rise to serious doubt and squarely brings the case within the ambit of *further inquiry* under Section 497(2), Cr.P.C.

6. Despite the fact that the FIR was registered against unknown offenders, the prosecution failed to conduct any judicial identification parade after the arrest of the Applicant. It is settled law that where an accused is not named in the FIR, no description of the culprits is given, and the arrest is effected at a subsequent stage, the holding of a lawful identification parade before a Magistrate becomes indispensable to connect the accused with the alleged offence. Such an exercise constitutes a substantive and vital step in the investigation and cannot be lawfully substituted by police-station identification, telephonic identification, or dock identification at trial. In the present case, the Investigating Officer himself admitted during remand proceedings that he had shown the Applicant's photograph to the complainant at the police station. Owing to this prior exposure, the learned Magistrate declined the request for holding an identification parade, holding that the process had already been irretrievably tainted and rendered meaningless.

This admitted lapse strikes at the very root of the prosecution case and creates a serious dent, entitling the Applicant to the benefit of further inquiry. In similar circumstances, the Honourable Supreme Court of Pakistan in the case of ***Muhammad Rafique v. The State (1997 SCMR 412)*** has held that: "*Fact that the petitioner is accused in a number of cases of robbery, is not sufficient to deprive him of his liberty. It has not come on record, as to, why identification test of the petitioner through eye-witnesses was not held when his name did not appear in the F.I.R. Mere production by the petitioner before police of some cash alleged to have been obtained by robbery, in absence of any other evidence. In this respect the observations made in the case of Ishaq Masih v. The State (1993 SCMR 1322) are relevant*". Similar view has been taken by this Court in Case of ***Asif v. The State (2012 YLR 211)***.

7. The Applicant was arrested on 22.03.2025, whereas the complainant, for the first time, nominated the Applicant only after a lapse of four days by recording his statement under Section 164, Cr.P.C. on 26.03.2025. Such belated nomination is inherently suspect and suffers from multiple legal infirmities: firstly, it is in direct contradiction to the FIR, wherein neither the name nor any description of the culprits was provided; secondly, the statement under Section 164, Cr.P.C. is conspicuously silent as to the source or basis of identification of the Applicant; thirdly, the address of the complainant mentioned therein materially differs from the address stated in the FIR, thereby casting further doubt on the credibility

and consistency of the prosecution version; and fourthly, the improvement introduced after the arrest of the Applicant is, under settled law, viewed with great suspicion. It is well established that where a witness makes material improvements on vital particulars at a belated stage, such conduct amounts to a dishonest improvement, creates serious doubt in the prosecution case, and entitles the accused to the concession of bail.

8. Record shows that the Applicant was simultaneously arrested in FIR No.64/2025 under Section 395 PPC, but the learned Judicial Magistrate discharged him under Section 63 Cr.P.C., as the complainant failed to identify him during ID parade. This documented failure of identification reflects adversely on the prosecution's claim that the Applicant was one of the unidentified robbers. No robbed property, nor any weapon allegedly used in the offence, was recovered from the Applicant. In offences of dacoity, recovery is a key connecting factor, and in its absence, prosecution version requires strong independent corroboration, which is not forthcoming. Even otherwise, the I.O. has already submitted challan in 'A' Class due to absence of evidence against the Applicant, which substantially reduces the prosecution's likelihood of establishing guilt.

9. The Applicant's family filed an application under Section 491 Cr.P.C. (HCP No.1221/2025), complaining that the Applicant had

been illegally detained by police officials. A raid was conducted by the learned Magistrate but the Applicant was not found, and subsequently the police showed his arrest in another case. Such conduct strengthens the plea of false implication and mala fide.

10. Indeed, Section 395, P.P.C. prescribes *alternative punishments*, namely imprisonment for life or rigorous imprisonment for a term which shall not be less than four years nor more than ten years, in addition to fine. Consequently, where, upon a tentative appraisal of the material on record, the case falls within the scope of *further inquiry* as envisaged under Section 497(2), Cr.P.C., the likelihood of the accused being visited with the *lesser punishment* provided by law cannot be excluded. It is well-settled that in such circumstances, particularly where the identity of the accused is doubtful, the evidence lacks independent corroboration, and material contradictions are apparent, the statutory discretion in the matter of punishment operates in favour of the accused at the bail stage. Therefore, having regard to the dual punishments prescribed under Section 395, P.P.C., read with the doubtful and tentative nature of the prosecution case, the Applicant is entitled to the concession of bail on the touchstone of further inquiry.

11. In view of glaring contradictions between FIR and 164 Cr.P.C. statement, absence of identification parade, and non-recovery, the matter squarely falls within the ambit of further inquiry under

Section 497(2) Cr.P.C. Thus, the continuous detention of the Applicant for indefinite period would serve no useful purpose.

12. For the foregoing reasons, and while making only a tentative assessment of the available material, I am of the view that the prosecution case against the Applicant is highly doubtful, suffering from material contradictions and procedural lapses. The case, therefore, falls within the scope of further inquiry as envisaged under Section 497(2) Cr.P.C. Accordingly, the Applicant, Murad son of Ghulam Qadir, is admitted to bail subject to furnishing 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 trial Court. The observations herein are tentative and confined to the decision of bail. The trial Court shall not be influenced thereby and shall adjudicate strictly on the evidence led before it. These are the detailed reasons of the Short Order dated: 02-12-2025.

JUDGE