

## **IN THE HIGH COURT OF SINDH AT KARACHI**

### **Criminal Bail Application No.2792 of 2025**

Applicants : Sadiq Ali & Ayaz, Through:  
Mr. Muhammad Adeel Meo,  
Advocate

The State : The State Through Ms. Seema Zaidi,  
Additional Prosecutor General,  
Sindh

Date of hearing : 01.12.2025

Date of Order : 01.12.2025

### **O R D E R**

**Jan Ali Junejo, J:-** Through this Criminal Bail Application filed under Section 497, Cr.P.C., the Applicants seek the concession of post-arrest bail in FIR No.211/2025, registered at Police Station Gulshan-e-Maymar, Karachi under Sections 392, 397, and 34, PPC. Their post-arrest bail applications were dismissed by the learned III Additional District & Sessions Judge, Karachi West vide orders dated 14.06.2025 and 02.10.2025 passed in Criminal Bail Applications Nos.2782/2025 and 4988/2025; hence, the Applicants have invoked the jurisdiction of this Court.

2. Brief facts of the case, as stated in FIR No.211/2025 registered at Police Station Gulshan-e-Maymar, Karachi, are that the complainant, a rickshaw driver by profession, reported that on 21.05.2025 at about 0930 hours, while he was present near Al-Roshan Restaurant, Sector Z-4, Gulshan-e-Maymar, waiting for passengers,

two persons riding a motorcycle allegedly intercepted him and, at gunpoint, snatched his mobile phone and fled away from the spot. The complainant lodged the report with the police, whereupon the case was registered under Sections 392, 397, and 34, PPC. During the course of investigation, the Applicants were arrested in connection with the said offence, identification proceedings were conducted, and upon completion of investigation, the challan was submitted before the competent Court.

3. Learned counsel for the Applicants submits that the Applicants are innocent and have been falsely implicated in the present case and seek the concession of post-arrest bail. He contends that the Applicants were not nominated in the FIR, nor was any description of the alleged culprits provided by the complainant, which renders their subsequent implication highly doubtful. He argues that the alleged confessional statements before the police are inadmissible in evidence under Articles 38 and 39, of the Qanun-e-Shahadat Order, 1984, and thus cannot form reasonable grounds for believing the Applicants' guilt. He contends that the alleged recovery is doubtful, foisted, and not connected with the present FIR. He argues that the identification parade was conducted after the Applicants had already been arrested and exposed to the police, thereby seriously diminishing its evidentiary value. He contends that the complainant has entered into compromise and has sworn an affidavit expressing no objection to the grant of bail. He argues that

the investigation has been completed, challan has been submitted, and the Applicants are no longer required for investigative purposes. He contends that the case squarely falls within the ambit of further inquiry under Section 497(2), Cr.P.C., and, therefore, prays that the Applicants may kindly be enlarged on post-arrest bail.

4. Conversely, learned lady Additional Prosecutor General for the State opposes the bail application and prays for its dismissal. She contends that although the Applicants are not nominated in the FIR, their subsequent arrest and implication connect them with the commission of the offence. She argues that the identification parade was conducted before the Magistrate in accordance with law, wherein the complainant identified the Applicants. She contends that the offence alleged is of a serious nature involving armed robbery, which falls within the prohibitory clause, and therefore the Applicants are not entitled to the concession of bail. She argues that sufficient material is available on record to believe that the Applicants are involved in the commission of the offence, and as such, the bail application deserves dismissal.

5. I have given due consideration to the submissions advanced by the learned counsel for the Applicants/accused as well as the learned Additional Prosecutor General for the State, and have carefully perused the material available on record with the requisite judicial circumspection. Upon a tentative assessment of the record,

the following aspects merit consideration. The Applicants were not nominated in the FIR, nor did the complainant furnish any description, including facial features, complexion, or physical build, sufficient to facilitate identification. It is well-settled law that where an accused is subsequently introduced and the FIR lacks descriptive particulars enabling identification, the case ordinarily falls within the ambit of further inquiry. The alleged disclosure or confession before the police is devoid of evidentiary value, being inadmissible under Articles 38 and 39 of the Qanun-e-Shahadat Order, 1984, and such material, by itself, does not constitute reasonable grounds for believing that the Applicants committed the offence. No recovery of the robbed articles was effected from the Applicants at the time of their arrest in the present FIR, and whether any alleged recovery in another case is connected with the present occurrence is a matter to be determined through evidence, not at the bail stage. Moreover, the identification parade was conducted after the Applicants had already been arrested in another case, and at this stage the defence plea regarding prior exposure to the complainant cannot be outrightly ruled out. This Court has consistently held that exposure of suspects prior to identification proceedings substantially diminishes the evidentiary value of such identification. Reliance in this regard is placed on *Zahid Hussain v. The State (2017 YLR Note 225)*, wherein it was held that: "*It is significant to mention that when name, identification marks and face description of accused are not*

*mentioned in FIR and incident occurred during night hours, identification parade of accused before the Magistrate was essential and in absence of such parade, bail shall be granted as matter of right and confession of accused before the Investigating Officer and subsequently, recovery of some articles without any specific description on his pointation will not deprive the accused from the extension of concession of bail".*

6. Besides, the complainant has sworn an affidavit expressing no objection to the grant of bail. Though such affidavit is not conclusive in nature, it lends support to the view that the case calls for further inquiry. The investigation has been completed and the challan has already been submitted; therefore, the Applicants are no longer required for investigative purposes. In these circumstances, the continued detention of the Applicants for an indefinite period would not serve any useful purpose.

7. In view of the above, particularly the non-nomination, doubtful identification, inadmissible confession, and absence of direct incriminating material, the case against the Applicants squarely falls within the ambit of Section 497(2), Cr.P.C., attracting the rule of further inquiry. The prosecution has failed to demonstrate any exceptional circumstances disentitling the Applicants from the relief of bail.

8. For the foregoing reasons, the Applicants Sadiq Ali and Ayaz are found entitled to concession of bail. Consequently, the Criminal

Bail Application is accordingly allowed. The Applicants, Sadiq Ali S/o. Muhammad Nawaz and Ayaz S/o. Manzoor Hussain, are admitted to post-arrest bail subject to their furnishing: Solvent Surety in the sum of Rs.50,000/- (Fifty Thousand Only) each, and 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: 01-12-2025.

**JUDGE**