

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No. 1719 of 2016

Applicant: Hazrat Ali s/o. Damsaz,
through Mr. Habibur Rehman Jiskani,
advocate.

Respondent: The State, through Mr. Abdullah Rajput, APG.

Complainant: Faheem Abbas is present in person.

Date of hearing: 07.02.2017
Date of order: 07.02.2017

ORDER

Zafar Ahmed Rajput, J:- Through instant Criminal Bail Application, applicant Hazrat Ali son of Damsaz, seeks post arrest bail in Crime No. 210/2016, registered at P.S. Saeedabad, under sections 392, 397 & 34 P.P.C. His earlier bail applications bearing Nos. 1825/2016 and 2116/2016 were heard and dismissed by the learned Sessions Judge, Karachi-West, vide orders dated 15.10.2016 and 14.11.2016, respectively.

2. The allegation against the applicant is that on 7th September, 2016 at about 2145 hours, the applicant /accused along with absconding accused Feroz arrived at main road near Al-Habib School, Sector 9-A, near Yaseen Masjid, Saeedabad, Karachi and snatched mobile phone set Nokia-7210 from the complainant Faheem Abbas, who was standing with his friends Shahnawaz and Saqib; however, the complainant with the help of his said friends attempted to apprehend the applicant/ accused, who took out a dagger and attacked on the complainant causing injury at his right side chest, however, they succeeded to apprehend the applicant/ accused along with robbed mobile and dagger and thereafter, the complainant

with the help of his friends and police, brought the applicant/ accused at Police Station, where he was booked in the instant crime.

3. Learned counsel for the applicant/ accused has mainly contended that the applicant/ accused is innocent and has falsely been implicated in this case; that the memo of arrest was not prepared at the occurrence and in fact the signature of the complainant appearing in the F.I.R., so also, in the memo do not tally each other; that number of mobile is also not mentioned in the F.I.R.; that in fact, the applicant/ accused was coming on motorcycle and mistakenly he hit the motorcycle of the complainant and in result thereof the complainant sustained injury on his chest; that police has submitted challan against the applicant/ accused, hence he has no more required for further investigation, therefore, he is entitled for concession of the bail.

4. On the other hand learned A.P.G. has strongly opposed this application for grant of post arrest bail on the ground that the applicant /accused was apprehended at the spot and he attacked on complainant with dagger, who sustained injuries on his chest and the Medico-legal Report in this respect is positive, which shows that there was a wound of sharp edged weapon in the chest of the complainant, which is sufficient to establish that in fact injury was not a result of any road accident due to collusion of motorcycles but the same was inflicted upon the complainant with the dagger.

5. Heard the learned counsel for the applicant as well as complainant and learned A.P.G. and perused the material available on record.

6. It appears that the alleged incident took place on 07.09.2016 at 2145 hours and the F.I.R. was lodged promptly after two hours and twenty minutes. The applicant/ accused was apprehended by the injured complainant with the assistance of his friends and later on he was produced along with dagger and snatched mobile phone before the Police. The Medical Report of the complainant also confirms the nature of the injury which itself is sufficient to corroborate that the same was not result of any road accident or collusion of the motorcycle but it was inflicted with dagger. The alleged offence under section 392 P.P.C. is punishable for ten years. No case of further inquiry has been made out. Prosecution, prima facie, has sufficient evidence to connect the accused with commission of alleged offence. The effect of preparation of memo of arrest at police station and genuineness of signatures on mashirnama comes within the ambit of deeper appreciation of evidence, which is neither permissible nor desirable at bail stage.

7. The offences like robbery and dacoity are increasing in the society, which is not only creating scare among the people but ruining the safety of the life and property of law abiding citizens and also generating sense of insecurity amongst public at large. Hence, this bail application is dismissed.

JUDGE

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