

**ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

Cr.Bail.Appl.No.S- 829 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE
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15.10.2020.

Mr. Ghulamullah Chang, Advocate for applicant.

Ms. Safa Hisbani, A.P.G. for State.

Mr. Kamal Khan Nizamani, Advocate for complainant alongwith complainant.

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ORDER

ZULFIQAR AHMAD KHAN, J: Through this bail application, applicant Muhammad Adnan seeks his admission on post-arrest bail in Crime No.47/2020 P.S Shaheed Fazil Rahu for offence u/s 392, 34 PPC. The bail plea raised by applicant before the learned 1st Additional Sessions Judge/MCTC, Badin was turned down by means of order dated 20.05.2020.

2. The brief facts in nutshell are that present applicant on 25.04.2020 at about 0145 hours alongwith co-accused Muhammad Nadir Khan came on motorcycle and committed robbery of cash amount of Rs.40,000/- and three mobile phones from the staff of Nizamani Petrol Pump.

3. Learned counsel for the applicant inter alia contended that applicant is innocent and has falsely been implicated in the case in hand on account of dispute with complainant of Crime No.46/2020; that no independent witness has been cited though the place of incident is a thickly populated area; that the complainant party neither raised any hue or cry nor chased the accused; that it is unbelievable that accused first committed robbery at 0045 hours from Irfan Petrol Pump and then at about 0145 hours they committed another robbery from Nizamani Petrol Pump which is at the distance of one kilometer; that the recovery has been foisted upon the applicant; strangely Cameras at both the Pumps are shown to be not-working and the true owners of Pumps (i.e. Shell and Caltex etc) have not come forward; lastly it is contended that the case against applicant requires further inquiry.

4. On the other hand, learned A.P.G. appearing for the State alongwith counsel for complainant opposed the bail application and submitted that applicant has been nominated in FIR with specific role and recovery of cash amount, unlicensed pistol and motorcycle has been affected from him. Lastly, they have prayed for dismissal of bail application.

5. I have heard the learned counsel for the parties and perused the material available on record with their kind assistance.

6. Admittedly, the alleged incident as per FIR had taken place on 25.04.2020 whereas report thereof was lodged on 27.04.2020 after the delay of two days without any plausible explanation though it is alleged that complainant party identified the accused at the time of offence and the distance between place of occurrence and police station is about one and half kilometer. Moreover, all the witnesses are staff of the said Petrol Pump and no any independent witness has been cited. Cameras are stated to be non-operational which would have given irrefutable evidence of the incident. It appears that as per FIR complainant party did not raise any hue or cry nor they chased the accused persons nor informed to 15 police about the incident. It also does not appeal to a prudent mind that accused persons committed the alleged offence of robbery with open faces, though per counsel there was dispute of salary between complainant of Crime No.46 of 2020 and the applicant. Even the registration number of motorcycle which was driven by accused at the time of commission of offence has not been mentioned in FIR. In these circumstances, I am of the view that the case of applicant requires further probe.

7. In view of the above, the applicant/accused has made-out a case for further inquiry as contemplated under section 497(2), Cr.P.C. and he is granted post-arrest bail subject to his furnishing solvent surety in the sum of Rs.20,000/- (Rupees twenty thousand) and PR bond in the like amount to the satisfaction of learned trial Court.

The observations made herein above are tentative in nature and will not prejudice the case of either party at the time of trial.

JUDGE

**ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

Cr.Bail.Appl.No.S- 831 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE
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15.10.2020.

Mr. Ghulamullah Chang, Advocate for applicant.

Ms. Safa Hisbani, A.P.G. for State.

Mr. Kamal Khan Nizamani, Advocate for complainant alongwith complainant.

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ORDER

ZULFIQAR AHMAD KHAN, J: Through this bail application, applicant Muhammad Adnan seeks his admission on post-arrest bail in Crime No.46/2020 P.S Shaheed Fazil Rahu for offence u/s 392, 34 PPC. The bail plea raised by applicant before the learned 1st Additional Sessions Judge/MCTC, Badin was turned down by means of order dated 21.05.2020.

2. The brief facts in nutshell are that present applicant on 25.04.2020 at about 0045 hours alongwith co-accused Muhammad Nadir Khan came on motorcycle and committed robbery of cash amount of Rs.16,000/- and two mobile phones from the staff of Irfan Petrol Pump.

3. Learned counsel for the applicant inter alia contended that applicant is innocent and has falsely been implicated in the case in hand on account of dispute with complainant over the salary; that no independent witness has been cited though the place of incident is a thickly populated area; that the complainant party neither raised any hue or cry nor chased the accused; that it is unbelievable that accused first committed robbery at 0045 hours from Irfan Petrol Pump and then at about 0145 hours they committed another robbery from Nizamani Petrol Pump which is at the distance of one kilometer; that the recovery has been foisted upon the applicant; strangely Cameras at both the Pumps are shown to be not-working and the true owners of Pumps (i.e. Shell and Caltex etc) have not come forward; lastly it is contended that the case against applicant requires further inquiry.

4. On the other hand, learned A.P.G. appearing for the State alongwith counsel for complainant opposed the bail application and submitted that applicant has been nominated in FIR with specific role and recovery of cash amount, unlicensed pistol and motorcycle has been affected from him. Lastly, they have prayed for dismissal of bail application.

5. I have heard the learned counsel for the parties and perused the material available on record with their kind assistance.

6. Admittedly, the alleged incident as per FIR had taken place on 25.04.2020 whereas report thereof was lodged on 26.04.2020 after the delay of one day without any plausible explanation though it is alleged that complainant party identified the accused persons at the time of offence and the distance between place of occurrence and police station is about one kilometer. Moreover, all the witnesses are staff of the said Petrol Pump and no any independent witness has been cited. Cameras are stated to be non-operational which would have given irrefutable evidence of the incident. It appears that as per FIR complainant party did not raise any hue or cry nor they chased the accused persons nor informed to 15 police about the incident. It also does not appeal to a prudent mind that accused committed the alleged offence of robbery with open faces, though per counsel there was dispute of salary between complainant and the applicant. Even the registration number of motorcycle which was driven by accused at the time of commission of offence has not been mentioned in the FIR. In these circumstances, I am of the view that the case of applicant requires further probe.

7. In view of the above, the applicant/accused has made-out a case for further inquiry as contemplated under section 497(2), Cr.P.C. and he is granted post-arrest bail subject to his furnishing solvent surety in the sum of Rs.20,000/- (Rupees twenty thousand) and PR bond in the like amount to the satisfaction of learned trial Court.

The observations made herein above are tentative in nature and will not prejudice the case of either party at the time of trial.

JUDGE

**ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

Cr.Bail.Appl.No.S- 830 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE
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15.10.2020.

Mr. Ghulamullah Chang, Advocate for applicant.

Ms. Safa Hisbani, A.P.G. for State alongwith complainant ASI Ghulam Muhammad Khaskheli.

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ORDER

ZULFIQAR AHMAD KHAN, J: Applicant Muhammad Adnan has applied for post-arrest bail in Crime No.48/2020 registered at Police Station Shaheed Fazil Rahu for offence under section 23(1) A of Sindh Arms Act, 2013.

2. Brief facts of the prosecution case as disclosed in F.I.R. are that on 28.04.2020 ASI Ghulam Muhammad Khaskheli arrested the applicant / accused at 1400 hours from Badin-Golarchi road near Sorhadi Shakh and at the time of arrest one 12 bore desi pistol alongwith four cartoos was recovered from the possession of applicant.

3. Learned counsel for the applicant/accused mainly contended that applicant/accused has already been granted bail in the main offence i.e. Crime Nos.46 and 47 of 2020 of Police Station Shaheed Fazil Rahu. He has further contended that alleged pistol has been foisted upon the applicant/accused by the police at the instance of complainant party of main case in order to strengthen the main case/crime. Per counsel it is easy to foist such type of weapon upon any person but it is difficult to prove at trial. Lastly, learned counsel has argued that investigation is complete; challan has been submitted; accused is no more required for investigation; he is sole bread earner; all the prosecution witnesses are police officials and there is no question of tampering with the prosecution evidence.

4. On the other hand, learned A.P.G argued that pistol has been recovered from the possession of applicant/accused in presence of the mashirs and alleged offence falls within the prohibitory clause of section 497 Cr.P.C. She has opposed the bail application.

5. I am inclined to grant bail to the applicant/accused for the reasons that he has been granted bail by this Court in the main case i.e. Crime Nos. 46 and 47 of 2020 of same P.S and this is the off shoot case. In the present case 12-Bore pistol has been allegedly recovered from the possession of applicant/accused. It is rightly contended that it is easy to foist such unlicensed and un-numbered pistol upon anybody but it is difficult to prove at trial. Applicant/accused is no more required for investigation purpose. He is the sole bread earner of his family which has been pushed to poverty in the absence of any income generated by the applicant on day to day basis. All the prosecution witnesses are police officials hence there is no question of tampering with the prosecution evidence. Needless to say that the Court while hearing an application for bail is not to keep in view the maximum sentence provided by the Statute but the one which is likely to be entailed in the facts and circumstances of the case. The fact that applicant has been in jail from his arrest yet commencement of his trial let alone its conclusion is not in sight, would also tilt the scales of justice in favour of bail rather than jail. Reliance is placed on the case reported as **Jamal-ud-Din v. State (2012 S C M R 573)**.

6. In view of above, I have no hesitation to hold that the case against applicant/accused requires further inquiry as envisaged under section 497(2) Cr.P.C. Consequently, instant bail application is allowed and the applicant/accused is granted bail subject to furnishing solvent surety in the sum of Rs.20,000/- (Rupees twenty thousand) and P.R. Bond in the like amount to the satisfaction of the trial Court.

The observations made herein above are tentative in nature and will not prejudice the case of either party at the time of trial.

JUDGE

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