

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.151 of 2021

Date *Order with signature of Judge*

For hearing of Bail Application.

09.03.2021

M/s. Habib Ahmed Tajik and Pir Darwesh Khesghi, Advocates for the Applicant.

Mr. Riasat Ali, D.P.P for the State.

Complainant Khalid Mehmood, present in person.

ORDER

Muhammad Saleem Jessar, J:- Through this bail application, Applicant Waqar @ Vickey seeks his release on post arrest bail in Crime No.767/2020 of P.S Defence AVLC, Karachi, under Section 397/34 PPC. The applicant preferred his bail plea before the first forum, which was turned down by means of order dated 07.01.2021; hence, he has approached to this Court through this Application.

Since the facts of the prosecution case are already mentioned in the FIR, which is annexed with Court file, therefore, there is no need to reproduce the same.

Learned counsel submits that name of the applicant does not transpire in FIR; however, he was implicated by the police upon statement of co-accused Muhammad Rashid from whose possession robbed motorcycle bearing No.KNB-5999, Maker Honda 125, Red Color 2019 Engine No.R-536508, Chassis No.EB-218705, was recovered. He next submits that said co-accused Muhammad Rashid has been bailed out by the same trial Court/11th Additional Session Judge, Karachi, South (Rajesh Chander Rajput). He further submits that neither the offensive weapon nor any incriminating article has been shown to have been recovered by the police from his possession, therefore, case against applicant requires further

inquiry. He next submits that due to sustaining injury on his person at the hands of unknown culprits, applicant is also suffering critical medical problems, same can be termed as ground for his release on bail. As far as his involvement in other criminal case viz. FIR No.771/2020 of P.S Zaman town, under Section 397/34 PPC is concerned, learned counsel submits true copy of judgment dated 15.02.2021 vide Criminal Case No.05/2021 (re-the State Versus Waqar @ Vicky and another) passed by XXIst Judicial Magistrate, Karachi (East) under the cover of his statement dated 09.03.2021 in which he has been acquitted of the charge.

Learned D.P.P for the State submits that co-accused from whose possession robbed motorcycle of the complainant was recovered, has been bailed out by the same trial Court and nothing incriminating was recovered from present applicant, therefore, does not oppose the bail application.

Complainant present in person submits photocopy of letter issued by the XIth Additional Sessions Judge, Karachi (South) vide Sessions Case No.102/2021 (re-the State Versus Registrar Accountability Court No.II) and submits that robbed motorcycle which was recovered from co-accused Muhammad Rashid, has been restored to him on *Superdari* basis in terms of Section 516-A Cr.P.C. He; however, opposes the bail application.

Heard arguments, record perused. Admittedly, name of the applicant does not transpire in the FIR; besides, he was shown arrested in crime No.771/2020 of P.S Zaman Town, under Section 397/34 PPC in which case he has been acquitted of the charge by way of judgment dated 15.02.2021. As far as instant case is concerned, he was implicated by co-accused Muhammad Rashid and said co-accused has been bailed out by the trial Court for the reasons best known to him. Nothing incriminating has been shown to have been recovered from his possession nor he was subjected to identification parade, therefore, involvement of applicant in this case requires further probe and the case against him is purely covered by sub-section 2 to section 497 Cr.P.C. Consequently, instant bail application is hereby allowed. Applicant **Waqar @ Vickey son of Rahim Dad**, shall be released on bail subject to furnishing his solvent surety in the sum of Rs.100,000/- (Rupees One Lac Only) and PR Bond in the like amount to the satisfaction of learned trial Court.

It need not to iterate that the observation(s) made hereinabove is/are tentative in nature and shall not prejudice the case of either party during trial. However, the learned trial Court may proceed against the Applicant, if he will be found misusing the concession of bail.

This Criminal Bail Application is disposed of in the terms indicated above.

JUDGE

Zulfiqar/P.A