

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

**Criminal Bail Application No. 1863 of 2021**

Applicant : Yasir @ Yaseen s/o Horan, through  
Mr. Babr Hussain Shah, advocate

Respondent : The State, through Mr. Muntazir Mehdi, Addl.  
P.G.

Date of hearing : 31.01.2022  
Date of order : 31.01.2022  
-----

**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Applicant/accused Yasir @ Yaseen s/o Horan through instant criminal bail application seeks post-arrest bail in Crime No. 344/2021, registered at P.S. Baloch Colony, Karachi under Section 397, 109, 34, P.P.C. His earlier application for the same relief bearing No. 3184/2021 was heard and dismissed by the Court of X-Additional Sessions Judge, Karachi-South vide order dated 15.09.2021.

2. Precisely, the case of the prosecution as unfolded in the F.I.R. lodged on 26.08.2021 is that on 23.08.2021 at 09:30 p.m., three unknown accused persons, riding on two motorcycles, duly armed with deadly weapon, robbed a Samsung Grand Prime mobile phone and Rs. 35,000/- from complainant Owais Dahar; a Samsung Note-8 from his friend Ibrahim Malik and an iPhone-8 from his friend Daniyal Subhani at Main Express way, near Iqra University and run away.

3. The learned counsel for the applicant contends that the applicant is innocent and has falsely been implicated in this case by the police; that the applicant resided in Islamabad along with his family and in the month of July, 2021 he came to Karachi with his family to spent Eid and was residing in the house of his sister-in-law from where he was arrested by the police for ulterior motive and taken to police station where S.H.O. demanded Rs, 20,00,000/- as illegal gratification and later he was booked in three false cases, out of them he

has already been acquitted of the charge by the trial Court in Sessions Case No. 2608 of 2021 arisen out of Crime No. 346 of 2021; that nothing has been recovered from the possession of the applicant and the alleged recovery of robbed mobile phone has been foisted upon him by the police; that the alleged offence does not fall within prohibitory clause of section 497, Cr. P.C., hence, the applicant is entitled for the bail.

4. On the other hand, learned Addl. P.G. vehemently opposed this application on the ground that the applicant after being arrested led to police party to his house and produced robbed mobile phone to police party; the complainant also identified the applicant at police station during investigation; hence, he is not entitled for the concession of bail.

5. I have considered the arguments advanced by the learned counsel for the parties and also perused the material available on record.

6. It appears from the perusal of the record that after lodging of the instant F.I.R., the applicant was arrested on 30.08.2021 under Crime No. 346 of 2021, registered under section 23(1)(a), Sindh Arms Act, 2013. During interrogation, he disclosed about committing robbery of alleged articles from complainant and his friends and voluntarily produced mobile phone of the complainant from his house. As per memo of arrest, the complainant also identified the applicant during investigation as his accused.

7. Offence under Section 397, P.P.C. is non-bailable and in non-bailable offence grant of bail is not the right of an accused but a concession. The alleged offence carries punishment of rigorous imprisonment for not less than seven (07) years; as such, prohibition of section 497, Cr. P.C. does not attract, but considering the fact that the offences like robbery/dacoity are frequently reported to have been committed without any restriction in urban and rural areas, 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.

8. From the tentative assessment of the evidence on record, it appears that the prosecution has sufficient evidence against the applicant to connect him with the alleged offence; hence, I dismiss this criminal bail application. The trial Court is however, directed to examine the complainant and his witnesses within two months hereof. The applicant is at liberty to file fresh application before the trial Court after examination of the complainant and his witnesses, if so advised, which shall be considered by the trial Court, if filed, in accordance with law.

JUDGE

Athar Zai