

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

**Criminal Bail Application No. 2446 of 2021**

Applicant : Imran Shah s/o Hidayatullah, through  
Mr. Abdul Naeem A. Qureshi, Advocate

Respondent : The State, through Mr. Faheem Hussain  
Panhwar, D.P.G., Sindh

Date of hearing : 26.01.2022  
Date of order : 10.02.2022

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**ORDER**  
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**ZAFAR AHMED RAJPUT, J:-** Applicant/accused Imran Shah s/o Hidayatullah being abortive to get the concession of post-arrest bail in Cr. Bail Application No. 5310/2021 from the Court of IV<sup>th</sup> Additional Sessions Judge Malir, Karachi vide order dated 11.12.2021, through this application seeks the same concession from this Court in Crime/FIR No. 503 of 2021, registered under sections 392, 397, 412/34, P.P.C. at Police Station Ibrahim Hyderi, Karachi.

2. Briefly stated, the facts of the case are that, on 04.11.2021 at 03:15 p.m., complainant Muhammad Aadil Naseer s/o Naseer Muhammad lodged the aforesaid F.I.R. to the effect that, on 21.10.2021 at 12:30 a.m., he was sitting outside his house, situated near Pili Tanki, Ilyas Goth, Malir, when two unknown persons came on a motorcycle, out of them one showing a pistol robbed his mobile phone, Infinix Hot 9 Pro, bearing IMEI No. 354158110013826, containing SIM card No. 0316-2570469 and Rs. 2,000/-.

3. The learned counsel for the applicant has mainly contended that the applicant is innocent and has falsely been implicated in this case by the police; that no identification parade has been conducted during investigation for getting the applicant identified through the complainant; that the applicant has also been implicated in another false F.I.R. bearing Crime No. 637 of 2021, registered at P.S. Malir under section 411, 412, 413/34, P.P.C.; that the applicant is a shop keeper

and deals in used and new mobile phones and repairs out of order mobile phones and runs his business in the name and style of 'Mr. Phone' in Shop No. F-5, Amma Tower, Saddar; that on 31.10.2021 police forcibly took the applicant with them from his shop in presence of several persons and such video recording is available and seized 110 mobile phones of different companies and models but showed seizing of only 84 mobile phones in aforesaid Crime No. 637 of 2021, lodged on 05.11.2021; that the instant false F.I.R. has been lodged by the complainant with the connivance of police after arrest of the applicant and with unexplained delay of 14 days; that the police has submitted the challan against the applicant under section 412, P.P.C.; however, the guilt of the applicant requires further inquiry.

4. On the other hand, learned DPG has vehemently opposed this application on the grounds that complainant's robbed mobile phone has been recovered from the possession of the applicant, who dishonestly purchases stolen/robbed mobile phones; hence, he is not entitled for the concession of bail.

5. Hear, record perused.

6. It appears from the perusal of the record that the alleged incident of robbery took place on 21.10.2021 for that the complainant lodged the F.I.R. against two unknown accused persons after delay of 14 days, on 04.11.2021, without furnishing any plausible explanation. It is an admitted position that no identification test was conducted during investigation for getting the applicant identified through the complainant if he was one of the alleged unknown robbers. Applicant is neither a previous convict nor he is required by police for further investigation; hence, no useful purpose would be served by keeping him behind the bars for an indefinite period. Police has already submitted the challan against the applicant for an offence under section 412, P.P.C., which provides punishment with imprisonment for life or rigorous imprisonment for 10 years for dishonestly receiving stolen property, knowingly that it was obtained by dacoity;

however it is an admitted position that the alleged recovered mobile phones and tablets were not obtained by dacoity; as such, it is yet to be established by the trial Court after thorough probe into the matter as to whether the alleged offence of retaining stolen property falls within the ambit of section 411 or under section 412, P.P.C., and whether applicant shared common intention and/or committed alleged offence under section 392, 397/34, P.P.C.

7. Keeping in view the circumstances discussed above, it is a case of further inquiry as contemplated under sub-section (2) of Section 497, Cr.P.C. Accordingly, I admit the applicant to post-arrest bail in aforesaid crime/offence subject to furnishing by him solvent surety in the sum of Rs. 1,00,000/- (*Rupees One Lac only*) and PR bond in the like amount to the satisfaction of the trial Court.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits. In case the applicant misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving him notice, in accordance with law.

JUDGE

Athar Zai