

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No. 192 of 2022

Applicant : 1. Kashif Ramzan s/o Muhammad Ramzan and ,
2. Ameen Khan s/o Muhammad Jahanzeb, both
through Mr. Uzair Ali Khan, Advocate

Respondent : The State, through Ms. Rahat Ehsan, Addl. PG

Date of hearing : 16.02.2022
Date of order : 16.02.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Applicants/accused Kashif Ramzan s/o Muhammad Ramzan and Ameen Khan s/o Muhammad Jahanzeb being abortive to get the concession of post-arrest bail from the Court of Sessions Judge Malir, Karachi, vide order dated 12.01.2022, through instant application seeks the same concession from this Court in Crime/FIR No. 584 of 2021, registered under sections 395, P.P.C. at Police Station Gadap City.

2. Briefly stated, the facts of the case are that, on 15.12.2021 at 0005 hours, complainant Muhammad Imran s/o Muhammad Yaqoob, lodged the instant FIR against the nine un-known persons for snatching of oil tanker bearing registration No. TLH-312 with patrol, driver and his mobile phones and cash Rs. 57,000/- near PSO Pump, Behria Town Karachi by dropping him and driver in jungle of Nooiabad after tying their hands and wrapping their eyes.

3. Learned counsel for the applicants contends that the applicants are innocent and have falsely been implicated in this case by the police; that the names of the applicants are not mentioned in the FIR; that neither any recovery has been effected from the applicants nor they received or retained any robbed articles; that the instant case is a fit case for further enquiry; that since under section 395, P.P.C. alternate sentence has been provided viz. imprisonment for life or imprisonment not less than four years and more than ten years, lesser

sentence should be considered by the Court in the matter of bail; as such, the applicants are entitled for the concession of bail.

4. On the other hand, learned Addl. PG has vehemently opposes grant of post-arrest bail to applicants on the ground that the snatched oil tanker was recovered from the possession of the applicants; hence, they are 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, on 15.12.2021, applicants were arrested by police from Mehran town, Korangi and recovered snatched oil tanker from their possession. Subsequently, complainant identified the applicants in identification test with their specific role before a Magistrate as two out of nine unknown accused persons who committed the alleged snatching. No enmity has been claimed by the applicant with the complainant for their false implication in the instant case.

7. The alleged offence under Section 395, P.P.C. is non-bailable and carries punishment for imprisonment of life or with rigorous imprisonment for a term which shall not be less than four years and more than ten years under the schedule-II of the Criminal Procedure Code. There is no cavil to the proposition that the Court while hearing a bail application is not to keep in view the maximum sentence provided by the statute for the charged offence but the one which is likely to be entailed; however, in such like cases, the accused cannot claim bail as a matter of right. From the tentative assessment of the evidence on record, it appears that the prosecution has sufficient evidence against the applicants to connect them with the alleged offence; therefore, they are not entitled to concession of bail. It may be observed 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. For the forgoing facts and reasons, I dismiss this criminal bail application. However, the applicants are at liberty to file fresh bail application before the trial Court after examination of the eye-witnesses, if so advised, which will be considered by the learned trial Court, if filed, in accordance with law.

9. Needless to mention here that the observations made hereinabove by this Court are tentative in nature and the same shall not influence the trial Court while deciding the case of applicants on merit.

JUDGE

Athar Zai