

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No.2111 of 2021

Applicant : Muhammad Zeeshan s/o. Waqar,
through Mr. Syed Lal Hussain Shah,
Advocate

Respondent : The State, through Ms. Rahat Ehsan,
Addl. Prosecutor General.

Complainant : Bilal Javed (*nemo through served with notice*)

Date of hearing : 18.02.2022
Date of order : 18.02.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant criminal bail application, applicant/accused Muhammad Zeeshan s/o. Waqar seeks post-arrest bail in Crime No.59/2021, registered at P.S. Sir Syed, Karachi, under Section 397/34, P.P.C. His earlier application for the same relief bearing No.750/2021 was heard and dismissed by the learned Additional Sessions Judge-V, Karachi-Central vide order, dated 31.07.2021.

2. As per F.I.R., complainant Bilal Javed deals in mobile phones in the name and style of D.V. Mobile Shop, situated at U.P. More, North Karachi. On 18.01.2021 at about 2245 hours, three unknown accused persons riding on a motorcycle came at complainant's shop duly armed with weapons and robbed 17 mobile phones as per details mentioned in the F.I.R. and run away.

3. After hearing the learned counsel for the applicant, Additional Prosecutor General and perusing the material available on record, it appears that earlier the case was disposed of under 'A' Class of Police

Rules. Subsequently, on 08.04.2021 applicant and two other accused persons; namely, Junaid s/o Zaheen and Salman s/o Muhammad Aslam were arrested in Crime No.186/2021, registered under Section 395/337-A(i), P.P.C. at P.S. Bilal Colony and during the course of interrogation the applicant and Salman disclosed that they had committed robbery in shop of complainant; hence, the applicant was arrested in the instant crime. The applicant is in judicial custody since 08.04.2021, police had already submitted challan against him and even after passing of ten months his trial could not be concluded by the trial Court

4. It further appears that neither any robbed article was recovered from the possession of the applicant nor any identification test was conducted through a Magistrate for his identification and it has not come on record, as to, why identification test of the applicant through eye-witnesses was not held when his name did not appear in the F.I.R. Prima facie, there is no incriminating material available with the prosecution to connect the applicant with the commission of alleged offence, except his extra-judicial confession while in custody of police, which is inadmissible under Article 39 of the Qanun-e-Shahadat, Order, 1984. Under the circumstances, the guilt of applicant is yet to be proved at the trial. Hence, the instant bail application is allowed; the applicant is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.1,00,000/- (Rupees One Hundred Thousand only) and P.R. bond in the like amount to the satisfaction of the trial Court.

5. 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.

CrI. Bail application stands disposed of.

JUDGE

Abrar