

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No.2293 of 2021

Applicant : Muhammad Jabbar alias Uzair s/o.
Muhammad Ilyas, through Mr. Waheed
Ali Siyal, Advocate

Respondent : The State, through Mr. Faheem Hussain
Panhwar, Deputy Prosecutor General.

Complainant : Shah Zeb (*nemo though served with notice*)

Date of hearing : 23.02.2022
Date of order : 23.02.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant criminal bail application, applicant/accused Muhammad Jabbar alias Uzair s/o. Muhammad Ilyas seeks post-arrest bail in Crime No.36/2021, registered at P.S. Iqbal Market, Karachi, under Section 392/397/34, P.P.C. His earlier application for the same relief bearing No.3557/2021 was heard and dismissed by the learned Additional Sessions Judge-II, Karachi-West vide order, dated 29.09.2021.

2. As per F.I.R., complainant Shah Zeb serves in a mobile shop. On 18.01.2021 at about 10:30p.m., three unknown accused persons riding on a motorcycle robbed from him mobile phone and Rs.2,000/- on the strength of fire arms at Dabba More, Sector 11½ Orangi Town and ran away.

3. After hearing the learned counsel for the applicant, Deputy Prosecutor General and perusing the material available on record, it appears that on 19.01.2021 applicant and another accused person; namely, Faraz alias Choto s/o Sabir Ali were arrested by the police and

alleged robbed mobile phone of the complainant was recovered from them. The applicant is in judicial custody since 19.01.2021, police had already submitted challan against him and even after passing of more than one year his trial could not be concluded by the trial Court

4. It further appears that no identification test was conducted through a Magistrate for the identification of the applicant and it has not come on record as to why identification test of the applicant through complainant 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 in result thereof the applicant is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.2,00,000/- (Rupees Two 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