## ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI

Crl. Bail Appln. No.180 of 2022

Date Order with Signature(s) of Judge(s)

For hearing of bail application.

## 10.03.2022

Mr. Muhammad Hanif Samma, Advocate for applicant. Mr. Faheem Hussain Panhwar, DPG, Sindh a/w/ ASI-Sohail Ahmed P.S. Shah Latif Town. Complainant-Mushtaq Ali is present in person.

Through instant criminal bail application, applicant/accused Syed Ubaidullah S/o Syed Ali Khan seeks post-arrest bail in Crime No.1871/2021 registered at P.S. Shah Latif Town, under Section 392/397/34 R/W 412, Cr.P.C. His earlier application for the same relief bearing No.148/2022 was dismissed by the learned Additional Sessions Judge-IV, Malir-Karachi, vide order dated 18.01.2022.

- 2. As per the FIR, on 31.10.2021 at 1530 hours near Soorti Company Shah Latif Town Malir Karachi two unknown accused persons riding on 125 motorcycle, duly armed with weapons, robbed Rs.50,000/-, three mobile phones as per details mentioned in the F.I.R., service card and ATM card from the complainant Mushtaq Ali S/o Hassan Bux, for which aforementioned F.I.R. was lodged.
- 3. At the very outset, the complainant present in Court states that the applicant was not among the unknown accused person who robbed him; hence, he has no objection to the grant of bail.
- 4. I have heard the learned counsel for the applicant as well as learned D.P.G. and perused the material available on record.

5. It reflects that the applicant was arrested on 04.12.2021 and since then he is confined in judicial custody. It further reflects that initially the F.I.R. was lodged under section 392/397/34, P.P.C., subsequently after arrest of the present applicant, who was found using one of the mobile phones robbed from the complainant, Section 412, P.P.C. was added in the Charge Sheet. From the bare reading of Section 412, P.P.C. it appears that the same applies upon accused person who dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity.

offence as reported in F.I.R. was committed by two unknown accused persons; hence, the same does not come within the definition of dacoity but robbery as defined under Section 391, P.P.C. The case against applicant for retaining robbed mobile phone at the most falls under Section 411, P.P.C. which is being punishable for 03 years does not falls within the prohibitory clause of Section 497, Cr.P.C. The law is very liberal especially when it is salutary principle of law that the offences which do not fall within the prohibitory clause, the grant of bail is a rule while its refusal is mere an exception. Accordingly, the applicant/accused is admitted to post-arrest bail subject to furnishing his solvent surety in the sum of Rs.50,000/-(Rupees Fifty Thousand only) and P.R. Bond in the like amount to the satisfaction of the trial Court.

Crl. Bail application stands disposed of.

JUDGE