

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-534 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE
	1. For orders on office objections. 2. For hearing of main case.
<u>26.07.2021.</u>	

Mr. Babar Ali Panhwar, Advocate for the applicant.
Mr. Abdul Rehman Raza Abbasi, Advocate the complainant.
Ms. Sobia Bhatti, A.P.G for the State.

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Irshad Ali Shah J:- - It is alleged that the applicant with rest of the culprits by committing trespass into house of complainant Muhammad Juman committed theft / robbery of his gold ornaments and other belonging, for that, present case was registered.

2. The applicant on having been refused post arrest bail by learned Vth Additional Sessions Judge, Hyderabad has sought for the same from this court by way of instant application u/s 497 Cr.P.C.

3. It is contended by learned counsel for the applicant that the FIR of the incident has been lodged with the delay of about eight days, yet it does not contain the name of the applicant; co-accused Abid Hussain alias Allah Warayo has already been admitted to bail by this Court, therefore, the applicant is entitled to his release on bail on point of further inquiry and consistency.

4. Learned A.P.G. for the State has recorded no objection to release of the applicant on bail, however learned counsel for the complainant has objected to release of the applicant on bail by contending that he is

hardened criminal and has remained in absconsion for noticeable period.

5. I have considered the above arguments and perused the record.

6. The FIR of the incident has been lodged with delay of about eight days; yet it does not contain the name of the applicant, which appears to be significant. The name of the applicant was disclosed by the complainant later by way of further statement, which could hardly be treated as part of FIR. Co-accused Abid Hussain alias Allah Warayo with utmost similar role has already been admitted to bail by this Court. In these circumstances, it would be unjustified to deny concession of bail to the applicant only for the reason that he is hardened criminal and/or fugitive.

7. In case of *Mitho Pitafi vs. The State (2009 SCMR 299)*, it has been held by Honourable Apex Court that;

*“---S. 497---Penal Code (XLV of 1860),
Ss.302/324---Constitution of Pakistan (1973),
Art.185(3)---It is well-settled principle of law that
bail can be granted if an accused has good case
for bail on merit and mere absconsion would not
come in way while granting the bail.”*

8. In view of the facts and reasons discussed above, the applicant is admitted to bail subject to his furnishing solvent surety in the sum Rs.50,000/- (rupees fifty thousand) and PR bond in the like amount, to the satisfaction of the learned trial Court.

9. The instant bail application is disposed of accordingly.

JUDGE