

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

**Criminal Bail Application No. 636 of 2022**

Applicant : Affan @ Irfan s/o Bhooro, through  
Mr. Abdul Haleem Jamali, advocate

Respondent : The State, through Mr. Fahim Hussain  
Panhwar, a/w complainant Rehmatullah

Date of hearing : 25.04.2022  
Date of order : 25.04.2022  
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**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Applicant/accused Affan @ Irfan s/o Bhooro through instant criminal bail application seeks post-arrest bail in Crime No. 222/2022, registered at P.S. Sohrab Goth, Karachi under sections 392, 397, 34, P.P.C. His earlier application for the same relief bearing No. 1230/2022 was heard and dismissed by the Court of IV-Additional Sessions Judge Malir, Karachi vide order, dated 26.03.2022.

2. Briefly stated, the facts of the case are that, on 02.03.2022 at 1540 hours, complainant Rehmatullah s/o Noor Muhammad lodged the aforesaid F.I.R. to the effect that, on the said date, at about 12:45 p.m., he was passing through inner street of Super Market, near Taj Petrol Pump, Sohrab Goth, Karachi when four persons riding on two motorcycles stopped him and robbed his purse containing Rs. 3,500.00, copy of his CNIC and two mobile phones from him showing pistol; however, due to commotion people gathered and succeeded to apprehend out of them two robbers, while the others made their escape good. Meanwhile, a police party of P.S. Sohrab Goth reached the spot. The apprehended accused disclosed their names as Wazir Ali s/o. Muhammad Azeem and Affan alias Irfan s/o. Booro (*present applicant*). From apprehended accused Wazir Ali police recovered artificial pistol as well as robbed purse and mobile phones of the complainant.

3. The learned counsel for the applicant contends that the applicant is innocent and has nothing to do with the alleged offence; that the applicant drives motorcycle as bykea rider, who on the day of alleged incident was taking his client, which met an accident with the complainant, who beaten both of them and implicated them in this false case with mala fide intention and ulterior motives; that nothing incriminating was recovered from possession of the applicant; that the alleged offence does not fall within the prohibitory clause of section 497, Cr.P.C.; as such, the applicant is entitled to the concession of bail.

4. On the other hand, learned D.P.G. vehemently opposes this application on the grounds that the applicant is involved in a heinous crime, who was arrested red handed; hence, he is not entitled for 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 the applicant was apprehended by the people gathered at the spot on committing robbery from the complainant and from his companion co-accused Wazir Ali purse of the complainant containing Rs.3,500.00 as well as two mobile phones were recovered. No doubt, offence under Section 397, P.P.C. being carrying punishment with imprisonment for not less than seven (07) years does not fall within the prohibitory clause of section 497 Cr.P.C., while offence under Section 392, P.P.C. carries punishment for imprisonment for a term which shall not be less than three years and more than ten years. 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. 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.

7. From the tentative assessment of the evidence on record, it appears that the prosecution has sufficient evidence against the applicant to connect him with the commission of alleged offence; therefore, he is not entitled to concession of bail; hence, I reject this criminal bail application.

8. 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 applicant on merit.

JUDGE

Athar Zai