

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No.371 of 2022

Applicant : Bashir Ahmed s/o. Yar Muhammad,
through M/s. Manzar Bashir Memon,
Sikander Zulqarnain Unnar and Allah
Dino Gadehi, advocates.

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

Complainant : Bawesh Kumar s/o Ashok Kumar,
through Mr. Aftab Ahmed Hassnia,
Advocate.

Date of hearing : 26.04.2022
Date of order : 26.04.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Cr. Bail Application, applicant/accused Bashir Ahmed s/o. Yar Muhammad seeks post-arrest bail in Crime No.144/2021, registered at P.S. Mirpur Bathoro, District Thatta, under Section 395/34, P.P.C. His earlier application for the same relief bearing No.199/2022 was heard and dismissed by the learned Additional Sessions Judge, Sujawal vide order, dated 02.02.2022.

2. As per F.I.R., complainant Bawesh Kumar looks after the business/rice mill of his uncle Asharam Mangwani in the name and style of Raaj Industries, situated near PSO Petrol Pump, Mirpur Bathoro, District Sujawal. On 14.12.2021 at about 1225 hours, five unknown accused persons riding on two motorcycles, duly armed with weapon, came in the office of Raaj Industries and robbed Rs.585,000/- and two mobile phones and then they ran away.

3. After hearing the learned counsel for the applicant, complainant as well as D.P.G and perusing the material available on record, it appears that the applicant/accused was arrested in Crime No.03/2022, registered under Section 23(i)A-24 Sindh Arms Act at P.S. Mirpur

Bathoro and during course of interrogation, he applicant disclosed that he had committed robbery with complainant; hence, the applicant was arrested in the instant crime. The applicant is in judicial custody since 05.01.2022 and police had already submitted challan against him and his custody is no more required for investigation purpose.

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, no other incriminating material is 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 and in result thereof 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