

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 2039 of 2021

Applicant : Dilawar s/o Dildar, through
Mr. Syed Amir Shah, advocate

Respondent : The State, through Mr. Hussain Bakhsh
Baloch, Additional Prosecutor General.

Complainant : Asif Iqbal (*nemo though served with the notice*)

Date of hearing : 17.05.2022
Date of order : 17.05.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Having been rejected his earlier Bail Before Arrest Application bearing No. 2819 of 2021, arising out of Crime/F.I.R. No. 50 of 2021, registered at P.S. Defence, Karachi under Sections 392, 397/34, P.P.C., by the Court of VIth Additional Sessions Judge, Karachi-South vide order dated 13.08.2021, applicant/accused Dilawar s/o Dildar through instant application seeks the same concession from this Court. He was admitted to interim pre-arrest bail by this Court vide order, dated 29.10.2021, now the matter is fixed for confirmation or otherwise.

2. It is alleged that, on 12.06.2021 at 1355 hours in the booking office of Waraich Coach, situated at "C" Area, Qayyumabad, Karachi two unknown accused persons on the strength of pistol robbed cash of Rs12,000/- from complainant Asif Iqbal, for which aforesaid F.I.R. was lodged by him.

3. After hearing the learned counsel for the applicant as well as learned Additional Prosecutor General and perusing the material available on record it appears that the F.I.R. was lodged against two unknown accused persons and the name of present applicant has been taken by co-accused Waqar Shah in his statement during police custody, which is inadmissible under section 38 of Qanun-e-Shahadat Order, 1984. So far CCTV footage relied upon by the prosecution is concerned, the face of person sitting on the pillion seat of the motorcycle alongwith co-accused Waqar Shah is not identifiable. Moreover, the complainant in his cross-examination recorded by the trial Court has categorically stated that co-accused Waqar Shah was seated on motorcycle at the time of incident and aimed pistol upon him; however, he did not see

the face of the second accused who took looted amount from him. Under the circumstances, the guilt of the applicant requires further enquiry as envisaged under sub-section (2) of section 497 Cr.P.C.; hence, the interim bail already granted to the applicant vide order dated 29.10.2021 is confirmed on the same terms and conditions.

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. However, 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

Cr. Bail Application stands disposed of.

JUDGE

Athar Zai