

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Crl. Bail Application No. 1179 of 2018
Crl. Bail Application No. 1132 of 2018

<i>Date</i>	<i>Order with signature of Judge</i>
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For hearing of bail application:

04.10.2018

Mr. Jamroz Khan Afridi, Advocate for applicant in Cr.B.A. No.1132/2018.
Mr. Zulfiqar Ali Shah, Advocate for applicant in Cr.B.A. No.1179/2018.
Mr. Zahoor Shah, DPG a/w complainant.

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On 26-4-2018 one Bakht Nawaz lodged an F.I.R. which was numbered 195 of 2018 under sections 392, 397, 114, 411 and 34 P.P.C. at the Docks police station stating therein that he was at his jewelry shop when two boys came on a motorcycle armed with pistols and robbed him of Rs. 1,500,000 and 40 tolas of gold and ran away. The boys spoke Pushto. On 19-5-2018, the complainant recorded a further statement in which he stated that actually the boys who robbed him had taken Rs. 1,700,000, 52 to 53 tolas of gold as well as his pistol and that he was unable to give the complete and accurate details of the property stolen in the F.I.R.

2. Upon a query from the learned D.P.G. as to the circumstances which led the two applicants being nominated as the accused, the learned D.P.G. replied that the complainant was suspicious that a neighbor of his named Sardar Qavi was involved in the robbery. The said Sardar Qavi's mobile phone happened to be in the possession of the complainant. The complainant carried out his own investigation on Facebook and it was through his investigation on Facebook that he located and identified the applicants. Applicant Majid Shah was already in custody in another crime when he was arrested in this case. The complainant then saw a photo of the pistol that was recovered from applicant Majid Shah in the case he was in custody and the complainant identified the same as being his pistol which was stolen on the day of the robbery. Applicant Bilal was then arrested ostensibly on the statement of applicant Majid.

3. Applicant Mohammad Bilal applied for a bail after arrest before the learned Additional Sessions Judge No. 10 Karachi West who dismissed the bail application on 4-8-2018. Applicant Majid Shah was declined bail by the learned 2nd Additional Sessions Judge Karachi West on 7-8-2018.

4. I have heard the learned counsel for the applicants as well as the learned DPG and have also examined the record with their able assistance. My observations are as follows.

5. The investigation in the case, if any, has been conducted in a strange manner. The investigating officer appears to have relied solely on the detective work of the complainant to establish the case against the applicants. The Facebook record or the telephone records which the complainant claimed he had used to track down the applicants is not on record. The belated statement of the complainant in which he also introduced the fact that his pistol was stolen and then that stolen pistol was used as a pretext to arrest the applicant Majid, sounds rather unconvincing at this stage. I also find it unconvincing that a jeweler who had been robbed of a substantially valuable property and cash did not know what exactly was the loss which he had sustained due to the robbery and that it took him nearly a month to evaluate the exact loss. Vague description of the property stolen has been detailed. The complainant's case was that he had just opened his shop in the morning when he was robbed. It seems unnatural conduct that he had Rs. 1,700,000 lying in his shop at that time. It also appears that no recovery of the huge amount of cash has been made to date whereas some jewelry – the details of which do not appear in the record – was recovered from the house of applicant Bilal which the complainant claimed was some of the jewelry stolen from his shop. In view of the foregoing, the evidence against the applicants is sketchy and the case against them requires further inquiry to establish their nexus with the crime.

6. Above are the reasons for the short order dated 19.9.2018 in terms of which the applicants were admitted to post arrest bail subject to their furnishing solvent sureties in the amount of Rs. 50,000 each and a P.R. Bond in the like amount to the satisfaction of the learned trial court.

JUDGE