

**ORDER SHEET**

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**

Cr. Bail Application No.S-1125 of 2022

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE(S)</b>
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1. For orders on office objections.
2. For hearing of main case.

24.11.2022.

Mr. Fakhruddin Dahraj, Advocate for applicant.  
Mr. Imran Ali Abbasi, Assistant P.G Sindh.

**ORDER**

***Muhammad Saleem Jessar, J.-*** Through this application, applicant Barkat Ali seeks his admission on post arrest bail in Crime No.166 of 2022 registered at P.S Jamshoro for offence under Section 392, 394 PPC. The instant case was registered on 28.08.2022 and on very day the applicant was arrested by the Police in this case alongwith a robbed vehicle. The applicant had filed Criminal Bail Application No.867 of 2022 before the Court of Sessions, wherefrom it was assigned to learned IInd Additional Sessions Judge, Jamshoro at Kotri, who after hearing the parties declined applicant's request for bail vide his order dated 17.10.2022; hence, this bail application.

2. Since the facts of prosecution case are already mentioned in F.I.R as well as impugned order passed by IInd Additional Sessions Judge, Jamshoro at Kotri; therefore, there is no need to reproduce the same in order to save precious time of the Court.

3. Learned Counsel for applicant submits that applicant was taken away by SHO P.S Sujawal District Thatta on 27.05.2022 when he after attending the Court hearing was on the way and was taken away by SSP AVLC Karachi, SHO P.S Shah Latif Town, Karachi, SHO P.S Sujawal, Javed Abro, AVLC Karachi and Altaf Ali, AVLC Karachi; therefore, his mother namely Mst. Mirzadi filed C.P.No.D-3546 of 2022 before the Principal Seat of this Court at Karachi on 04.06.2022. On 11.08.2022 the learned Divisional Bench ordered for registration of case against the police officials, which too was not recorded by the SHO P.S Sujawal. However, on 28.08.2022 F.I.R of instant case was registered with P.S Jamshoro at 2000 hours and after two hours of the registration of F.I.R the applicant was shown arrested in this case alongwith alleged robbed vehicle at 1000 hours (night). He; therefore, submits that when

the applicant had remained missing and was illegally confined by the Police right from 27.05.2022 and subsequently C.P.No.D-3546 of 2022 filed by her mother which is still pending adjudication; yet, he has been booked in this crime by the police so that his mother may not get the case registered against the police officials; therefore, learned Counsel submits that instant case is nothing but is outcome of above petition; hence, *mala fide* on the part of police is obvious and the complainant of this case is tutored one; therefore, case against him requires further inquiry and pray for his release on bail.

4. Learned Assistant P.G Sindh has opposed the plea of the applicant on the ground that applicant is nominated in F.I.R; besides a robbed vehicle is shown to have been recovered from his possession. He; however, is not in a position to justify illegal confinement of the applicant right from 27.05.2022 to 28.08.2022.

5. The complainant in spite of notice has chosen to remain absent.

6. Heard and perused the record. No doubt, the applicant has been shown nominated under the F.I.R and surprisingly enough has been shown arrested from same date at 10:00 p.m. within the span of two hours alongwith alleged robbed car; yet the days with regard to his illegal confinement have not been accounted for, nor the police officials shown as respondents under aforesaid petition, which is still pending adjudication before the Principal Seat of this Court at Karachi, have produced him, rather denied to have his custody. If their denial is presumed to be true, even then the aged mother of applicant had no animosity or ill-will with the police for filing of said petition. The police have also failed to recover and produce the applicant before the Principal Seat of this Court at Karachi and as and when the petitioner / mother of the applicant stepped forward for registration of the case against the police officials regarding missing of her son, the applicant has been shown surfaced through instant F.I.R. All these factors show that the prosecution has not come with its clean hands and implicated the applicant with *mala fide* intention. Hence, the accusation against the applicant is yet to be determined by the trial Court after recording evidence of the witnesses.

7. In the circumstances and in view of above, the case against the applicant requires further inquiry in terms of sub-section (2) of Section 497 Cr.P.C. Accordingly, this bail application is hereby allowed. Applicant shall be

released on bail, subject to furnishing his solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand) and P.R Bond in the like amount to the satisfaction of learned trial Court.

8. It is pertinent to mention here that the observation(s) made hereinabove is/are tentative in nature and shall not prejudice the case of either party during trial.

**JUDGE**

Shahid

