

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

**Cr. Bail Application No. 1913 of 2021**  
**Cr. Bail Application No. 1914 of 2021**

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGES</b>
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For hearing of bail application.

**22<sup>nd</sup> November, 2021**

Mr. Dur Muhammad Mallah, Advocate for applicant.

Mr. Khadim Hussain, Addl.P.G. a/w I.O.

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**Omar Sial, J.**: Imtiaz Ali has sought post arrest bail in crime number 473 of 2021 registered under sections 397 and 34 P.P.C. at the Zaman Town police station. He has also sought post arrest bail in crime number 474 of 2021 registered under section 23(1)(a) of the Sindh Arms Act, 2013 at the same place police station. Earlier his applications seeking bail were dismissed on 2-10-2021 by the learned 12<sup>th</sup> Additional Sessions Judge, Karachi (East). Both F.I.R.s pertain to the same transaction thus both bail applications will be disposed of by this common order.

2. A background to the two cases is that **F.I.R. No. 473 of 2021** was registered on the complaint of Rafiq Ahmed Rajput on 17-5-2021. He recorded that on 16-5-2021 at about 9:00 p.m. his son Rao Rohan had been shot and injured while resisting an attempt by 3 persons to snatch his valuables from him. The complainant went to the place where the incident had occurred and saw that a mob of people was beating the applicant. The police arrived on the scene and managed to arrest the applicant whereas 2 of his companions had managed to escape. The police recovered an unlicensed pistol from the applicant as well and thus **F.I.R. No. 474 of 2021** was registered.

3. Learned counsel for the applicant has argued that the applicant is innocent; that he was picked up by the police and this false case lodged against him; that no recovery was effected from the applicant; that the description of the weapon seized does not match the description contained in the FSL report; that the contents of the F.I.R. are vague.

4. The complainant and his son, who was said to have been shot, were present in person. Both have stated in unison that the applicant is not the person who had shot and injured Rao Rohan. The investigating officer of the case on the other hand categorically stated that no recovery in this case had been effected from the applicant. Learned Additional Prosecutor General on the other hand has argued that the investigating officer as well as the complainant and his son have misrepresented to the court. It was his view that the complainant and his son have somersaulted from their initial position and that the investigating officer is misrepresenting that no recovery was effected from the applicant. He therefore prayed that appropriate proceedings be initiated against them all.

5. I have heard all parties and perused the relevant record.

6. It appears from the record that at no point in time did the complainant or his injured son state that the applicant was the person who had shot at Rohan. It is an admitted position that the complainant was not present on the spot when the incident is said to have occurred and in fact he has recorded that when he accompanied his injured son to the place of incident they saw that the public at large was beating the applicant. It has however not been denied by Rohan that the applicant was one of three persons who had come to rob Rohan and his friend.

7. The record also reflects that while it is alleged that 7 mobile phones were recovered from the applicant, none of these phones belonged to Rohan or his friends. While the fact that the applicant was arrested with 7 mobile phones in his pocket appears to be illogical, it is a part of record that no person claiming to be the owner of any one of the 7 phones has been examined or found.

8. It appears that the applicant was apprehended red handed and beaten by the public at large during an attempted robbery, in which 2 of his accomplices managed to escape. The fact that he was not the one who shot at and injured Rohan may very well be true but it does not preclude the fact that he was a member of the gang that was out to commit street crime. No *malafide* can be attributed to the complainant or the police in such an event. Because he was caught on the spot during the commission of an offence, whether or not recovery was effected from him is not a ground which would entitle him to bail. As far as the learned counsel's argument that the description of the seized weapon does

not reconcile with that given on the FSL report, prima facie does not appear to be a correct.

9. In view of the above observations, I am of the view that the applicant does have a case to answer and that he is not entitled to be admitted to bail. Both applications stand dismissed.

JUDGE