

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

Cr. Bail Application No. 609 of 2022

Cr. Bail Application No. 287 of 2022

---

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGES</b>
-------------	---------------------------------------

---

For hearing of bail application.

**28<sup>th</sup> April, 2022**

Mr. Raja Abdul Malik, Advocate for applicant in CrI.B.A. No.609/2022.

Mr. Haji Akbar, Advocate for applicant in CrI.B.A. No.287/2022.

Mr. Talib Ali Memon, A.P.G.

Complainant present in person.

=====

Omar Sial, J: Muhammad Iqrar and Rana Waqas (Criminal Bail Application No. 287 of 2022) and Jamil Muster (Criminal Bail Application No. 609 of 2022) have sought post arrest bail in crime number 529 of 2021 registered under section 397 and 34 P.P.C. at the Darakshan police station in Karachi. Earlier, their applications seeking bail were dismissed by the learned 9<sup>th</sup> Additional Sessions Judge, Karachi South on 14.12.2021. and 15.03.2022.

2. A background to the case is that the aforementioned F.I.R was lodged on the complaint of Mazhar Masood at 5:15 p.m. on 11.08.2021 reporting an incident that had occurred earlier that. Mazhar reported that his doorbell rang at 2:50 p.m. and when he went to open the door, 3 men armed with pistols forcibly entered his house while he saw a motorcycle parked outside. The men by pointing their pistols at Mazhar asked him to hand over all the valuables in the house otherwise he will be shot. Mazhar's son Abbas managed to run out of the house and contacted the police on 15. The men, perhaps unaware that Abbas had managed to escape, continued to loot the house while the other children of Mazhar managed to lock themselves inside their rooms. While the 3 men were busy looting the residents of the house, a police mobile arrived on the information received on 15 and managed to apprehend the 3 men along with the valuables they had intended to take away with them. The 3 men were identified as (i) Muhammad Iqrar, (ii) Rana Waqas (the two applicants in Criminal Bail Application No. 287 of 2022) and (iii) Muhammad Habib. Pistols were also seized from all 3 men.

3. I have heard the learned counsels for the applicants as well as the learned APG. The complainant was present in person however stated that he will not engage a private counsel to appear on his behalf.

4. The learned counsel for applicants Muhammad Iqrar and Rana Waqas has argued extensively to show that both applicants were very well known to the complainant for a number of years and that they are labourers who were working in the house of the complainant and when they asked the complainant to give them the money due to them for services rendered he filed this false case against them. The second ground he argued was that the complainant had given his no objection for the grant of bail. The complainant on the other hand, whole heartedly agreed that he knew the 2 applicants since they were children and not only that he also knew their elders. He also agreed that he had recorded his no objection for the grant of bail but that was due to the long association he had had with them and purely out of love and affection. He also explained that he had a soft spot for them because it was actually another employee of his named Tanveer who had convinced the 2 applicants to rob him. The complainant, during this hearing once again, requested that the 2 applicants be released on bail. He further stated that applicant Jamil was not amongst the persons who had entered his house and that he did not know who he was.

5. The complainant's demeanor, conduct in court and what he stated prima facie sounds true. There appears to be no reason whatsoever for him to either lodge a false case against the 2 applicants Muhammad Iqrar and Rana Waqas nor is there any confusion on account of identification of the accused. The accused were caught on the spot while they were trying to leave the house with the valuables that they had collected. All the valuables and 3 pistols were recovered from their possession. In such a situation, the prima facie magnanimity of the complainant in forgiving Iqrar and Rana and filing an affidavit for this purpose, carries little weight. It is also pertinent to mention that an offence under section 397 P.P.C. is a non-compoundable offence.

6. As far as the case of applicant Jamil Muster is concerned, it appears that his name has been included in the case on a disclosure made by Iqrar and Waqas and that there is no other evidence against him at this stage. The complainant confirmed that he was not one of the persons who had come to rob him and that he did not know he was. No recovery was made from Jamil neither did his

purported confession before the police lead to any discovery. It is alleged that Jamil was the person who provided the weapons to the 3 applicants. I am not satisfied with the investigation conducted in this regard. It is not enough to decline Jamil bail solely on the ground that one of the co-accused told the police that the weapons they carried were provided by Jamil. If this assertion was true, it was incumbent upon the investigation officer to find out more about this aspect of the case. A person providing weapons on rent to robbers, is a very serious allegation. Regrettably the investigating officer did not consider it serious enough to investigate. At this stage a mere statement of a co-accused involving Jamil in the offence, will not suffice to deny Jamil bail. This aspect will have to be decided after evidence is led at trial.

7. In view of the above, I am of the opinion that upon a tentative assessment, the prosecution has sufficient evidence to prima facie establish a nexus between applicants Muhammad Iqrar and Rana Waqas with the crime alleged. The bail application of these two applicants therefore stands dismissed. Applicant Jamil Muster has made out a case of further inquiry and therefore he is admitted to bail subject to his furnishing a solvent surety in the sum of Rs. 300,000 and a P.R. Bond in the like amount to the satisfaction of the learned trial court.

JUDGE