

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No. 173 of 2021

Date	Order with signature of Judge
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For hearing of bail application

16-2-2021

Mr. Hashmat Khalid, Advocate for applicants.

Mr. Riyasat Ali, District Public Prosecutor.

Omar Sial, J: Naseer Khan and Fazal Karim have sought post arrest bail in crime number 207 of 2020 registered under sections 395 and 34 P.P.C. at the Jamshed Quarters police station. Their earlier application seeking bail was dismissed on 10-11-2020 by the learned Additional Sessions Judge, East, Karachi.

2. A background to this case is that the aforementioned F.I.R. was lodged on 27-2-2020 by a man named Abdul Aziz Mughal recording information of an incident that had occurred on 26-2-2020. He narrated that while he was asleep with his family at home, 8 to 10 persons who looked like Afghan nationals to him entered his house and robbed all the valuables including one pistol.

3. The 2 applicants who were in custody in another crime (F.I.R. No. 525 of 2018 registered under section 395 and 34 P.P.C. at the Ferozabad police station) along with 7 others apparently during the interrogation of that crime on 11.6.2020 revealed that they had also committed the robbery in the house of Abdul Aziz Mughal (the complainant of F.I.R. 207 of 2020). Applicant Naseer Khan was one of the persons who was in custody. All the accused of crime number 525 of 2018 ostensibly told the investigating officer of this case that they had hid the valuables looted from the house of Mughal at a scrap warehouse which was owned by applicant Fazal Karim. The police went to the warehouse but found only one laptop from the warehouse.

4. I have heard the learned counsel for the applicant as well as the learned counsel DPP. The complainant did not effect an appearance. My observations and findings are as follows.

5. The applicants were arrested 4 months after the lodging of the F.I.R. An identification parade was held on 16-6-2020 in which 7 persons, which also included the 2 applicants was conducted. None of the residents of the house which was robbed were summoned to identify the accused. To the contrary one Faraz Ahmed identified all the accused. He was said to be jogging at 4:00 a.m. in a nearby park when he saw the accused leaving Mughal's house. Prima facie, Faraz Ahmed's identification in the circumstances of the case requires further inquiry. Further, out of all the valuables which were said to have been robbed from Mughal's house, a decrepit laptop was found from the scrap warehouse ostensibly owned by Fazal Karim. It appears that all the 7 accused had jointly taken the police to the warehouse. There is no evidence collected to establish the ownership of the warehouse, also, Mughal recorded a statement that he was taken to the police station and shown the laptop which looked like the one that had been taken from his home. Mughal was not sure about whether the only item found was his or not. This too upon a tentative assessment I find unusual. At the moment there appears to be no other evidence against the accused. Upon a tentative assessment the nexus of the accused with the crime requires further inquiry. The foregoing are the reasons for my short order of 15-2-2021.

JUDGE