

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

Crl. Bail Application No. 2328 of 2022

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**DATE**

**ORDER WITH SIGNATURE OF JUDGES**

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For hearing of bail application.

**02-03-2023**

Mr. Muhammad Imran, Advocate for applicant.

Mr. Muntazir Mehdi, Addl.P.G.

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**Omar Sial, J:** Asif Fateh has sought post arrest bail in crime number 245 of 2022 registered under sections 396 and 452 P.P.C. at the Shah Faisal police station. Earlier, his application seeking bail was dismissed on 23.11.2022 by the learned 6<sup>th</sup> Additional Sessions Judge, Karachi West.

2. A background to the case is that the aforementioned F.I.R. was registered on 22.09.2022 by one Shahzad who reported an incident which had occurred on 21.09.2022. He recorded that he had gone out of his house to buy some things at night. When he returned he saw people gathered outside his home. He was informed that 5 to 6 persons had broken into his house and after looting the house as they were leaving they fired and killed the brother of the complainant. The F.I.R. was registered against unknown persons.

3. I have heard the learned counsel for the applicant and the learned Addl.P.G. None from the complainant side effected an appearance despite notice. My observations and findings are as follows.

4. The record reflects that the prosecution has one witness by the name of Mohammad Aslam. Aslam claimed that he was in the house along with the family of the complainant when the robbers had entered the house. I have restricted any comments on this witness lest it impacts the case of either side. It is this witness who identified the applicant in an identification parade; however, he said that the applicant was not one of the persons who had entered the house but that when Aslam was going to the police

station he had seen the applicant sitting on a motorcycle on which one of the boys who had entered the house was also sitting. It is pertinent to mention though that this witness himself said that at the time of the robbery there was a power breakdown and that the generator in the house had to be started. In these circumstances where the applicant was fleetingly seen on a motorcycle with one of the co-accused and where the applicant in his section 161 Cr.P.C. statement had not provided much description of the robbers who had entered the house, whether he was in a position to identify the applicant will have to be explored further at trial. This is an area that requires further inquiry.

5. The other piece of evidence that the prosecution claims is that when the applicant was arrested he had some of the stolen goods with him. The circumstances in which the applicant was arrested and then how it was determined when he was arrested that the goods with him were the stolen goods, also is an area that requires further inquiry.

6. Above are the reasons for the short order dated 28.02.2023.

JUDGE