

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 258 of 2023

Crl. Bail Application No. 284 of 2023

DATE

ORDER WITH SIGNATURE OF JUDGES

For hearing of bail application.

03-03-2023

Mr. Aswad Ali Chouhan, Advocate for applicants.

Mr. Faheem Ahmed Panhwar, Addl.P.G.

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Omar Sial, J: Imran Nazir and Umer Farooq have sought post arrest bail in crime number 900 of 2022 registered under sections 397 and 34 P.P.C. at the New Karachi police station. Earlier, their application seeking bail was dismissed on 24.01.2023 by the learned 7th Additional Sessions Judge, Karachi Central.

2. Mohammad Arslan Qureshi lodged the aforementioned F.I.R. on 26.11.2022 reporting an offence that had been committed 2 months ago on 27.09.2022. He recorded that he works for a garment factory and that at about 8:30 p.m., 4 persons had come to the factory and snatched 8 telephones and 35,000 from the various people present and then left. The record reveals that 3 men were caught by the police for possessing unlicensed weapons on 27.11.2022. These 3 men were identified as the 2 accused as well as a 3rd by the name of Attaullah. Some of the phones stolen from the factory were recovered from their possession.

3. I have heard the learned counsel for the applicant and the learned Addl.P.G. The complainant declined to effect an appearance. My observations and findings are as follows.

4. I find it strange that for 2 months the complainant or any one of the others whose phone was allegedly stolen by the applicants did not lodge a complaint or an F.I.R. for the robbery committed at the garment factory. The owners of the factory have also not recorded a statement nor has the

police obtained the statements of any one of the other people allegedly robbed. The strangeness of the delay in lodging the F.I.R. becomes more pronounced when the 2 applicants are arrested in an unrelated crime the very next day after the lodging of the F.I.R. and surprisingly confess their involvement in the robbery case. The applicants providing IMEI numbers of all the phones stolen from the factory in the F.I.R., at this stage, also seems odd. Their case appears to be one of further inquiry.

5. I have noticed that both applicants have a healthy record of involvement in crime in the last 2 years. Police malafide in implicating the 2 applicants in this case as well on the strength of their previous crime record cannot be conclusively eliminated at this stage keeping in view the other evidence that the police has gathered. Each case has to be proved on its own and therefore I am of the view that it would be unfair (keeping in view the prima facie lack of other evidence) that the applicants are penalized at this stage solely because they have been involved in other crime. Their involvement in other crimes will not suffice as the sole evidence to convict them for the present crime.

6. On balance, the applicants have made out a case for grant of post arrest bail. They are therefore admitted to bail subject to each of the applicant furnishing a solvent surety in the sum of Rs. 250,000 each and a P.R. Bond in the like amount to the satisfaction of the learned trial court.

JUDGE