

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 2097 of 2022

DATE

ORDER WITH SIGNATURE OF JUDGES

For hearing of bail application.

16-02-2023

Mr. Raees Ahmed, Advocate for applicant.
Ms. Robina Qadir, Addl.P.G. a/w SIP Shaukat Ali, I.O. of the case.
Complainant present in person.

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Omar Sial, J: Rizwan Ali has sought post arrest bail in crime number 12 of 2022 registered under sections 395, 397 and 34 at the Ferozabad police station. Earlier, his application seeking bail was dismissed on 06.08.2022 by the learned 10th Additional Sessions Judge, Karachi East.

2. The F.I.R. in this case was registered at 6:00 p.m. on 07.01.2022 on the complaint of Mohammad Farooq. Farooq recorded that he was in the gold business and that it was during such a transaction when 2 of his employees named Asad and Nasir were carrying 17 biscuits of gold aggregating 170 tolas when they were intercepted by 4 men on 2 motorcycles who robbed 100 tolas of gold from his men.

3. Rizwan was arrested in a case of possessing an unlicensed weapon on 18.02.2022 when his involvement in the present crime was discovered. Both Asad and Nasir identified him as one of the robbers in an identification parade and recovery of 40 tolas of gold was also made from his house.

4. The learned counsel for the applicant has primarily argued that the police had picked up the applicant from his house on 08.02.2022 and not on 18.02.2022 as claimed by the police. In support of his argument he referred to some letters written by the wife of the applicant on 09.02.2022 to the courts as well as the police. The learned counsel was of the view that the F.I.R. was delayed for 4 days and that the complainant had given his no objection to the grant of bail. The learned Addl.P.G. supported the

impugned order. I have heard the counsel and the Addl.P.G. My observations are as follows.

5. In view of the fact that the applicant has been identified by the 2 persons from whom the gold was snatched and that partial recovery of the stolen gold has also been made from the applicant, I am not inclined to give any concession to the applicant on account of the delay in registering the F.I.R. at this stage. Upon a tentative assessment it appears that the delay in registration was not due to the complainant seeking time to manipulate the facts of the case.

6. The admissibility and value of evidence gathered through the identification parade will also have to be determined at trial. At this stage to go into details as to whether the identification parade was properly conducted and what value shall be assigned to it will tantamount to a deeper appreciation of evidence. It has not been alleged that the 2 victims of the robbery had any malafide in falsely implicating the applicant in the crime. As regards the no-objection of the complainant, suffice to say it has no value in the eyes of the law and in any case as the complainant was present in person and queried on his not objection, his response and demeanor was such that it was apparent that the no objection was not given by him with his free consent.

7. The learned Addl.P.G. put on record the crime history of the applicant which reveals that he has been involved in various crimes since the year 2014. The antecedents of the applicant also do not reflect him in a positive light at this stage.

8. I find no reason to interfere with the order of the learned trial court.

9. The bail application stands dismissed.

JUDGE