

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

Crl. Bail Application No. 473 of 2023

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**DATE**

**ORDER WITH SIGNATURE OF JUDGES**

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For hearing of bail application.

**03-04-2023**

Ms. Kiran Jehan Chohan, Advocate for applicant.

Mr. Abrar Ali Khichi, Addl.P.G.

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**Omar Sial, J:** Abbas Ali has sought post arrest bail in crime number 634 of 2022 registered under section 395, 397 and 34 P.P.C. at the Zaman Town police station in Karachi. Earlier, his application seeking bail was dismissed on 01.02.2023 by the learned 3<sup>rd</sup> Additional Sessions Judge, Karachi East.

2. A background to the case is that the aforementioned F.I.R. was registered on 15.06.2022 on the complaint of Bashir Ahmed. Bashir reported that earlier that date he along with his son Siraj were returning from a bank after encashing a cheque, when they were intercepted by 5 men on 3 motorcycles, who on the show of weapons robbed the Rs. 25,000 and escaped. The applicant was subsequently arrested and identified by the complainant while he was in police custody.

3. I have heard the learned counsel for the applicant and the learned Addl.P.G. My observations and findings are as follows.

4. Learned counsel's argument that in the F.I.R. it is stated that Rs. 25,000 was robbed from the complainant but in fact Rs. 17,000 was taken from him and Rs. 8,000 from his son, holds no weight. The only other argument advanced is that the complainant recognized the applicant while he was in custody and that an identification parade was not held. The impact on the prosecution case for not holding an identification parade and instead recognizing the applicant in custody is an issue that the learned trial court will decide after it has had an opportunity to evaluate the evidence

before it. At this preliminary stage I am not inclined to extend any benefit to the applicant on this count.

5. An offence under section 397 P.P.C. is non-bailable but falls within the non-prohibitory clause of section 497 Cr.P.C. Keeping in mind the principles enunciated in the Tariq Bashir and 5 others vs The State (PLD 1995 SC 34) case in mind, I am of the view the applicant's past involvement in similar cases as well as the high volume of similar cases being committed in the city, which has caused a sense of insecurity, the applicant is not entitled to be admitted to bail. An offence under section 395 P.P.C. exposes the applicant to potential life imprisonment and thus falls within the prohibitory clause of section 497 Cr.P.C.

6. Learned counsel not being able to satisfy the court that the applicant is entitled to bail, the bail application stands dismissed.

7. Above are the reasons for the short order dated 27.03.2023.

JUDGE