

# THE HIGH COURT OF SINDH KARACHI

For hearing of Bail Applications.

## **Criminal Bail Application No. 563 of 2023**

Applicants/Accused : Muhammad Shahzad son of  
Muhammad Aslam and Zaheer Abbas  
@ Zubair Abbas through Mr. Tahir  
Hussain Meo, Advocate.

*FIR No. 51/2023  
U/s: 399/402/34 PPC  
P.S. Iqbal Market, Karachi.*

## **Criminal Bail Application No. 564 of 2023**

Applicant/Accused : Muhammad Shahzad son of  
Muhammad Aslam through Mr. Tahir  
Hussain Meo, Advocate.

*FIR No. 52/2023  
U/s: 23(i) A.S.A.A.  
P.S. Iqbal Market, Karachi.*

Complainant/State : Through M/s. Rahat Ehsan and  
Muntazir Mehdi, Additional P.G.s.  
(in both bail applications).

Date of hearing : 30-03-2023

Date of order : 30-03-2023

## **ORDER**

**Adnan Iqbal Chaudhry J.-** Both Applicants/Accused seek post-arrest bail in FIR No. 51/2023 and one of them namely; Muhammad Shahzad also seeks post-arrest bail in FIR No. 52/2023 after the same had been rejected by the trial Court by order dated 03-03-2023.

2. The FIR No. 51/2023 is lodged for the offence under sections 399/402/34 PPC; whereas, FIR No. 52/2023 is for the offence under section 23(i) A of the Sindh Arms Act, 2023. The instance for both cases being the same as alleged in the FIR is that on 20-02-2023 around 1630 hours, the police party on patrol received spy information that certain persons were present at Punjtani Chowk, Sector 11½, Orangi Town, Karachi, planning to commit dacoity; that on reaching the spot and on the pointation of the spy, the Applicants

were arrested alongwith other persons and on a search of the Applicants, Muhammad Shahzad reveal a 30 bore pistol from the fold of his Shalwar alongwith magazine loaded by three live bullets and one cell-phone and from the Applicant Zaheer, was recovered a plastic pistol from the fold of his Shalwar and two cell-phones.

3. The FIR does not state the exact spot from where the Applicants were arrested; and does not state what they were found doing over there; nor does it explain what preparation they were found to be making for committing dacoity. Therefore, the offence alleged under section 399 is doubtful at this stage. Suffice to state that mere assembly of presence is not sufficient to constitute such offence. The offence under section 402 PPC is also not attracted as that is applicable to an assembly of five persons or more. In such circumstances, contention of the Applicants that they were arrested for ulterior motives and the recovery of the pistols, one 30 bore and the other plastic imitation were foisted on.

4. As regards the cell-phones allegedly recovered from the Applicants, the investigation does not reveal any report of theft of such cell-phones has been lodged. The incident allegedly taken place during the day time is doubtful.

5. For the foregoing reasons, the case against the Applicants is one of further inquiry falling within the ambit of subsection (2) of Section 497 Cr.P.C. Therefore, the Applicants are granted bail subject to furnishing solvent surety in the sum of **Rs. 200,000/- [Rupees Two Hundred Thousand Only]** each alongwith P.R. Bond in like amount to the satisfaction of the trial Court.

Needless to state that observations herein are tentative and nothing herein shall be construed to prejudice the case of either side at trial.

**JUDGE**

SHABAN\*