

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

Criminal Bail Application No. 1456 of 2023

Date	Order with signature of Judge
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For hearing of bail application

**12.9.2023**

Shah Imroze Khan advocate for the applicant  
Mr. Zahoor Shah Addl. PG along with SI/IO Mubashir Ahmed AVL  
Orangi Division Karachi  
Complainant Usama is present in person.

Through this bail application under Section 497 Cr.P.C., the applicant has sought admission to post-arrest bail in F.I.R No. 340/2023, registered under Section 392/397/34 PPC, lodged at Police Station Surjani Town Karachi. The earlier bail plea of the applicant has been declined by the learned IIIrd Additional District and Sessions Judge (West) Karachi vide order dated 06.06.2023 in Criminal Bail Application No. 2153/2023.

2. The accusation against the applicant is that on 14.04.2023 at about 1515 hours he robbed the complainant, snatched his motorcycle, and fled away, such report of the incident was lodged at P.S Surjani Town on 14.04.2023; subsequently, the applicant was arrested on the statement of co-accused.

3. It is, inter alia, contended that the applicant is innocent and has falsely been implicated in this case; that the name of the applicant is not mentioned in the said FIR, and that his case falls within the ambit of Section 497 Cr. P.C; that no specific role has been assigned to the applicant nor any recovery has been made from him in the present case during the investigation; that the offenses under Section 392, 397 PPC do not fall within the prohibition contained in Section 497(1) Cr. P.C. He further contended that the prosecution failed to associate the private and eye witness from the locality which is a violation of Section 103 Cr. P.C. In support of his contention, he relied upon the case of *Muhammad Nawaz vs. The State* 2023 SCMR 734. He lastly prayed for allowing the bail application.

4. Learned APG has opposed the application on the premise that on 15.04.202 applicant was arrested and the motorcycle of the complainant was recovered from his possession. Learned APG further submitted that during interrogation accused confessed his guilt for committing the

offence; that no enmity has been disclosed by the accused with the complainant and /or police to involve him falsely in this case; that there exists sufficient tangible evidence connecting the accused with the offence. She further argued that the offense is against society and there is a strong likelihood that he will commit the same offense if released on bail. She prayed for the dismissal of the bail application.

5. I have heard learned counsel for the parties and perused material available on record.

6. No doubt the name of the applicant-accused does not transpire in the FIR but he was arrested in another case and the police recovered robbed Motorcycle from him. The complainant identified his robbed Motorcycle. The prima facie evidence so brought on record by the prosecution against the applicant in the shape of recovery, is sufficient to attract Section 392, PPC and it is not a case of further inquiry.

7. It is well-settled by now that the identification of an accused during an identification parade cannot be considered a substantive piece of evidence and it is merely a corroboration even otherwise identification parade is immaterial if the identification of the accused is proved by other convincing evidence. Reference may be made to the case of Muhammad Akram v. State **2011 SCMR 877**.

8. In view of the peculiar facts and circumstances of the case, I am of the tentative opinion that the applicant/accused has failed to bring his case within the purview of further inquiry and as such is not entitled to bail at this stage. Resultantly, this bail application is dismissed, with direction to the trial Court to examine the complainant within one month, in case of failure the applicant may repeat his bail application before the trial Court which shall be decided on merit without being prejudiced by the observation recorded hereinabove.

9. Before parting with this order, it is observed that the observations made in this order are tentative and the same would have no bearing on the outcome of the trial of the case.

JUDGE