

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Criminal Bail Application No.1771 of 2023

Date	Order with signature of Judge
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For hearing of bail application

20.9.2023

Mr. Abid Ali advocate for the applicant
Syed Meeral Shah Bukhari, Additional PG

Through this bail application under Section 497 Cr.P.C., the applicant Deedar has sought admission to post-arrest bail in F.I.R No.950/2022, registered under Section 397/34 PPC, lodged at Police Station Gulistan-e- Johar Karachi. The earlier bail plea of the applicant has been declined by the learned XII -Additional District and Session Judge (East) Karachi vide order dated 02.02.2023 in Criminal Bail Application No. 339/2023.

2. The charge against the applicant is that on 14.11.2022 at about 1900 hours the complainant was present outside his house when he reached the gate of the house 03 persons who were riding on two motorcycles wearing shalwar kameez having weapons in their hands arrived and at the force of weapons they snatched from him wallet containing a color copy of CNIC and cash of Rs. 2000/- from his sister in law 1000/- Euro, 1000/- US\$ Dollar Rs. 1,25,000/- money exchange and one mobile phone Samsung and applicant tried to escape on motorcycle whereupon complainant raised a hue and cry and with help of area people in the meanwhile, he informed such fact to police on 15 helplines soon after police arrived there apprehended the applicant and took over his custody who disclosed his name as Deedar and disclosed names of absconding companion as Wahid and Raza. The police conducted a personal search of the applicant from his possession and recovered one 30-bore TT pistol along with a magazine containing four live rounds; such a report of the incident was lodged at P.S Gulistan-e-Johar on 14.11.2022.

3. It is, inter alia, contended that the applicant is innocent and has falsely been implicated in this case; he next contended that the applicant has nothing to do with the alleged offense and the incident took place with the brother of the complainant; that no any specific role has been assigned to the present applicant in the commission of the alleged offense, therefore, the case of the applicant becomes the case of further inquiry. He has further submitted that prosecution has miserably failed to associate any single independent witness, though the place of the incident is located in a thickly populated area, which act is a clear violation of Section 103 Cr. P.C.; that the offenses under Section 397 PPC do not fall within the

prohibition contained in Section 497 Cr. P.C. He has further contended that no active and specific role has been attributed to the present applicant to show his presence at the alleged place of incident. He lastly prayed for allowing the bail application.

4. Learned APG has opposed the application on the premise that the applicant with his accomplices committed robbery with the complainant and the offense is against the society and there is a strong likelihood that he will commit the same offense if released on bail. While denying the allegation of malice on the part of the police, learned APG submits that there was no reason for the police to implicate the applicant without any justification. Per learned APG the applicant/ accused was arrested red-handed on the spot by the complainant with the help of area people. Besides the applicant/ accused has been assigned the specific role of snatching a wallet containing a color copy of CNIC and cash of Rs. 2000/- he added that the applicant was accompanied by two absconding accused who managed to escape from the place of incident; that accused was apprehended by public and he was beaten by the public where after he was brought to the hospital, such medical record is also available on record; that no enmity has been shown by the applicant/accused towards complainant which could have been caused for his false implication in the present case. There are independent witnesses of the alleged occurrence who have fully implicated the applicant/accused in the commission of an alleged crime. He prayed for the dismissal of the bail application.

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

6. Prima facie some of the robbed articles were recovered from the applicant/accused along with the crime weapon. No enmity or ill-will has been suggested against the complainant or the prosecution to believe that the applicant/accused has falsely been implicated. Prima facie, sufficient material is available on record to connect the present applicant/accused with the commission of the offense.

7. In view of the above the applicant/accused has failed to make out a case for further inquiry at this stage. As a result, the instant bail application is dismissed. However, the trial court is directed to examine the complainant within one month and if the charge is not framed the same shall be framed on the next date of hearing. In case the trial court fails to comply with the court order, the applicant can ask for bail which shall be decided on merit and the observation recorded by this Court will not come his way.

JUDGE