

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
Criminal Bail Application No. 1756 of 2023

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Date

Order with signature of Judge

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For hearing of bail application

**22.9.2023**

Mr. Muhammad Saleh Mallah advocate for the applicant.  
Ms. Rubina Qadir, Deputy PG

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Through this bail application under Section 497 Cr.P.C., the applicant Shahzaib has sought admission to post-arrest bail in F.I.R. No. 952/2022, registered under Section 397, 34 PPC lodged at Police Station New Karachi. The earlier bail plea of the applicant has been declined by the learned IIIrd Additional District & Sessions Judge Karachi Central vide order dated 23.06.2023 in Criminal Bail Application No. 671/2023.

2. The brief contents of the F.I.R are that the complainant registered the FIR with the narration that on 15.12.2022, he was available outside of his shop when three young boys came on a motorcycle and snatched the purse of the complainant and also snatched 25,000/-, the complainant started crying where the mohalla people gathered and chased the robbers and succeeded to apprehend two accused. Thereafter, they were brought to the police station and they disclosed their names as Shahzaib and Irfan.

3. Learned counsel for the applicant/ accused argued that the applicant/accused is innocent and has been falsely implicated in this false case. Learned counsel further argued that F.I.R. had been lodged after the delay of 45 minutes, which is not properly explained by the complainant. Learned counsel contended that nothing was recovered from the possession of the present applicant/accused and the alleged recovery is foisted upon him. Learned counsel further argued that the complainant had not mentioned the description of the currency. Learned counsel has further contended that as per the memo of the arrest, the CNIC of the complainant and cash amount of Rs 300/- was recovered from the present accused but such fact is not mentioned in the contents of the F.I.R by the complainant, which shows serious doubt in the prosecution case, therefore the case of the applicant is one of the further inquiry within the meaning of Section 497 (2) Cr. PC. Learned counsel further argued that no specific place of arrest has been mentioned by the complainant, which also seriously creates doubt in the prosecution case; that the offense under Section 397,

P.P.C. is not applicable in the present case, whereas the offense under Section 392 has not been applied. Learned counsel submitted that there is no independent witness of the alleged incident even though it allegedly took place in a busy area, where so many people were gathered where the applicant was allegedly arrested. He lastly prayed for allowing the bail application.

4. Learned Addl. P.G has submitted that the complaint has been served but he has chosen to remain absent, however, opposed the bail application on the premise that during interrogation accused confessed his guilt for committing the offence; and that no enmity has been disclosed by the applicant/accused with the complainant and /or police to involve him falsely in this case. He further submitted that the plea taken by the applicant/accused that he was mistakenly apprehended by the public is not true and on the contrary, the public thrashed him out and handed over his custody to police which prima facie shows that he was involved in the alleged offence. Besides recovery has been made from the applicant at the time of his arrest. He added that there is sufficient material with the prosecution for believing that the applicant is connected with the offense as alleged against him by the complainant. 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. Tentative assessment of the record that the alleged offense occurred on 15.12.2022 and reported to the police on the same day. The allegations against the applicant are that on the day time and place of the incident as disclosed in the FIR he along with his accomplices robbed the complainant and attempted to flee however their motorcycle slipped, however, the accused were apprehended at the spot who disclosed their names as Irfan and Shahzaib, police also recovered one TT Pistol 30 bore from the accused Irfan.

7. Prima facie some of the robbed articles were recovered from the applicant/accused. 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.

8. In view of the above learned counsel for 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 in his way.

JUDGE

Zahid/\*