

IN THE HIGH COURT OF SINDH, KARACHI

Criminal Bail Application No. 2647 of 2024

Date

Order with signature of Judge

For hearing of Bail Application

17.02.2025

Mr. Dur Muhammad Mallah, Advocate for the Applicant.
Syed Mumtaz Ali Shah, Assistant Prosecutor General, Sindh
Mr. Aijaz Haidar Mughari, Advocate for Complainant.

ORDER

ALI HAIDER 'ADA', J:- Through this bail application, applicants Muhammad Ismail son of Nazir Ahmed, Naeem Abbas son of Abdul Hameed and Muhammad Ramzan son of Muhammad Sadiq seek their release on post arrest bail in Crime No.1221 of 2023 of P.S Surjani Town, Karachi, under Section 395, 397 PPC. The applicants had filed their bail application before the Court of Sessions wherefrom it was assigned to learned VIIth Addl. Sessions Judge, Karachi (West), who after hearing the parties, has turned down their request vide order dated 04.10.2024; hence, this application has been maintained.

The FIR was registered on 26.12.2023 while the incident as per FIR was taken place on 25.12.2023.

The brief facts of the prosecution case are that complainant's driver namely Waheed Ali who driven his Mazda Mini Truck No. JZ-1453, lifted three person who were standing at 4-K Chowrangi and they were accompanied the truck but later on they maltreated said Waheed Ali and snatched his mobile phone, Rs.900/- and Mazda Mini Truck. On 29.12.2024 when police conducted Nakabandi as well as during patrolling the applicants were arrested along with truck and case property and such memo of arrest was prepared.

Learned counsel for the applicants submits that applicants were arrested from their home and case property was foisted upon them; further

the complainant is not an eye witness and the trial is hanging since a year without any progress.

Learned counsel for the complainant has already submitted one affidavit of no objection of complainant namely Aqeel and states that he has no objection if this court grants bail to the applicants. In support of his contention, learned counsel has placed reliance upon the cases of Mazhar Iqbal & others V/S The State (2004 P.Cr.L.J.923), Mukhtar Ahmed & 3 others V/S The State (1999 P.Cr.L.J.1107) and Muhammad Makki V/S The State & others (2010 P.Cr.L.J. 1482).

On the other hand learned APG has contended that this is a heinous offence and falls under prohibitory clause and the truck was recovered from the custody of applicants, further the person, who identified the applicants, has fully supported the case of prosecution in his 161 Cr.P.C. statement and his no objection is not placed on record. Lastly learned APG prays for dismissal of bail application as there is no ground for further enquiry.

Record reflects that on 26.12.2024 main witness Waheed Ali son of Akram identified the applicants/accused and further the police in order to collect the corroborative piece of evidence also recovered the case property viz. Mazda Mini Truck. The complainant Aqeel filed no objection but the same has no evidentiary value when the ocular set in shape of Waheed Ali has fully supported the case of prosecution. Therefore, in view of the above, matter does not fall under further enquiry as no ground for bail is made out; hence instant bail application is dismissed.