

# IN THE HIGH COURT OF SINDH, KARACHI

Crl.Bail.Appln.No. 168 of 2025

**Before**

Mr.Justice Ali Haider Ada

Sadam s/o Qadir Memon : Mr. Ali Asghar Dholo, Advocate  
applicant, through  
Khem Chand, complainant : Mr. Qammeruddin Nohr DPG  
through  
The State, respondent, through : Mr.Qammeruddin Nohr DPG  
Date of hearing : 24.02.2025  
Date of Order : 24.02.2025

## **ORDER**

**ALI HAIDER ADA---J.**,The applicant seeks post arrest bail in crime No. 445 of 2024 registered at Police Station Thatta, for an offence under Section 397 & 34 PPC has been lodged by complainant SIP Raja Zafar PS Chatto Chand.

2. The facts of the prosecution case as per FIR is that on the eventful day complainant intercepted present applicant/accused being an accused of crime No. 445 of 2024 registered at Police Station Thatta, for an offence under Section 397 & 34 PPC with regard to the dacoity amounting Rs.2,50,000/=, when they reached at the place of occurrence, then one unknown person along with one Shabbir accused who was friend of applicant/accused Sadam Hussain committed robbery and thereafter escaped good.

3. Learned counsel for the applicant submits that instead to mention in the calander as a witness, the police malafidely involved the applicant Sadam Hussain as an accused, further submits that the offence under Section 397 PP”C is not attracted with the case of applicant as even the robbery was committed from complainant as well Sadam Husain and the offence once is not attracted then the applicant is entitled for concession of bail.

4. On the other hand, complainant is present in person along with stated that he had not given the name of Sadam Hussain (applicant/accused) to the police as an accused, police inserted him as an accused as such contention is affirmed by learned counsel for the complainant.

5. Learned DPG supports the order of learned trial Court on the instance that offence falls under the prohibitory clause and let the evidence is to be leaded, further submits that the subsequent FIR was also registered against the applicant under police encounter therefore he is not entitled for post arrest bail.

6. Heard and perused the material available on record.

7. Record reflects that on the statement co-accused namely Shabbir, the present applicant is involved while the recovery is not affected from the hands of applicant, further the co-accused who was in custody made

confessional statement before the police as in view of Article 38 of Qanun-e-Shahadat Order, 1984, at this stage same is inadmissible in the evidence until and unless some cogent evidence is available and it is a settled principle that once the evidence is required, then the matter falls under further inquiry. In view of the foregoing circumstances, the applicant/accused is admitted to post arrest bail subject to his furnishing solvent surety in the sum of Rs.50,000/= and P.R.Bond in the like amount to the satisfaction of learned trial Court.

Note:- The observations made herein above are tentative in nature and will not prejudice case of either party at the trial.

J U D G E

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