

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.429 of 2025

Applicants : Muhammad Sagheer & Aamir
through Mr. Suhail Qurban, Advocate

Respondent : The State
Mr. Ali Haider Salim, Addl. P. G. Sindh.

Date of order : 26.03.2025

Date of reasons : 05.04.2025

ORDER

KHALID HUSSAIN SHAHANI, J – Applicants Muhammad Sagheer and Aamir seek post-arrest bail in a case bearing crime No. 960 of 2024, offence u/s 397/34 PPC of Police Station Shahrah-e-Faisal, Karachi. Their earlier bail plea was declined by the learned Additional Sessions Judge-XI, Karachi East, vide an order dated 06.02.2025.

2. The relevant facts of the case are that on 21.10.2024, at about 7:00 p.m., the complainant was on way to Block-16-A, Gulistan-e-Jauhar, Karachi, for a delivery when he was intercepted by two unidentified persons on a motorcycle. At gunpoint, they robbed him of his mobile phone and fled. Based on these facts, an FIR was registered.

3. At the very outset, learned counsel submits that the applicants are innocent and have been falsely implicated. He argued that the applicants' names do not appear in the FIR and their identification was conducted in a police lock-up, which lacks evidentiary value. He further contended that the maximum punishment for the alleged offence is seven years, which must be considered while deciding bail applications, thereby placing the case outside the ambit of the prohibitory clause. No recovery was made from the applicants, and the alleged recovery of a mobile phone was manipulated with mala fide intent. Additionally, the applicants have already been granted bail in Crime No. 962/2024 under Sections 324, 353, and 34 PPC of PS Shahrah-e-Faisal by the Sessions Judge East on 28.11.2024. Accordingly, counsel prayed for the grant of bail.

4. Conversely, the learned Additional Prosecutor General opposed the bail plea, contending that the applicants were apprehended in an injured condition following an encounter with police and that mobile phone was recovered from them. However, he conceded that although the applicants'

names are not mentioned in the FIR, no identification parade was conducted before a competent court.

5. The FIR neither names the applicants nor provides any physical description. The incident occurred on 21.10.2024. The applicants were subsequently arrested in Crime No. 962/2024 under Sections 324, 353, and 34 PPC after an encounter but were not subjected to a formal identification parade before a Magistrate. Instead, identification was shown to have occurred in police custody, raising concerns over its admissibility at trial. Notably, the applicants were granted bail in the aforementioned case by the learned Additional Sessions Judge-XI, Karachi East, as per the order dated 06.02.2025. Given that the maximum punishment under Section 397 PPC is seven years, the offence does not fall within the ambit of prohibitory clause of Section 497(1) Cr.P.C. In such cases, bail is the rule and refusal the exception. The case has been challaned, and the applicants are no longer required for investigation. Accordingly, there exists a prima facie case for further inquiry into the applicants' guilt under Section 497(ii) Cr.P.C

6. These are the detailed reasons for the short order dated 26.03.2025, through which the applicants were granted post-arrest bail upon furnishing solvent surety of Rs.50,000/- (Rupees Fifty Thousand Only) each, along with a personal bond in the same amount to the satisfaction of the learned trial Court.

J U D G E

shahbaz