

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1112 of 2025

Applicant : Shabbir son of Soomar,
through Mr. Allah Wadayo Mirani, Advocate

Respondent : The State
through Ms. Rahat Ahsan, Addl: P.G Sindh.

Date of hearing : 20.05.2025

Date of order : 23.05.2025.

ORDER

KHALID HUSSAIN SHAHANI, J.- Applicant Shabbir, seeks post-arrest bail in a case bearing crime No.1408/2024, registered at P.S. Surjani Town, offence under Sections 392, 397, and 34 PPC. The applicant's earlier bail plea was declined by the learned XIth Additional Sessions Judge, Karachi West, vide order dated 05.03.2025.

2. As per the FIR, the complainant, a labourer by profession, reported that on the day of the incident he was riding on a motorcycle along with his friend Mohibullah, when at about 1030 hours, they were intercepted by three persons appearing to be of Sindhi-Baloch origin, armed with weapons. The culprits allegedly robbed them at gunpoint, snatching a Vivo Y-20 mobile phone and CNIC from the complainant and an OPPO A2020 mobile phone and student card from his friend. The complainant claimed he could recognize the culprits if brought before him. The FIR was accordingly registered under Sections 392/397/34 PPC, and investigation commenced.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated in this case with malafide intention. It was argued that the applicant was initially picked up by law enforcement agencies and shown arrested in the present FIR subsequently, which renders the case of the prosecution doubtful. It was further submitted that no specific description, name, or role of the applicant was mentioned in the FIR, and no identification parade has been conducted to establish the identity of the applicant as one of the alleged culprit. Learned counsel also pointed out that no recovery was made from the exclusive possession of the applicant, and the memo of arrest and recovery does not align with the facts later surfaced during investigation, particularly in light of the report under Section 168 Cr.P.C, which indicates that the complainant initially did not cooperate with the Investigating Officer and only later produced two accused persons along with the alleged case property facts that are starkly

contrary to the contents of the recovery memo. He further submitted that the alleged offence, though non-bailable, does not fall within the prohibitory clause of Section 497(1) Cr.P.C, and the applicant is no more required for investigation. It was lastly argued that the case requires further inquiry, and a single doubt at the bail stage is sufficient to extend the benefit of bail.

4. On the other hand, learned Assistant Prosecutor General (APG) opposed the bail application on the ground that the offence is of serious nature involving armed robbery, punishable under Section 397 PPC. He contended that the complainant has implicated the accused persons based on the sequence of events narrated in the FIR and subsequent investigation. The learned APG emphasized that Section 397 PPC attracts a sentence of imprisonment extending up to 14 years, and considering the gravity of offence, the applicant is not entitled to the concession of bail at this stage. However, the learned APG conceded that the identification parade had not been conducted and acknowledged the contradictions highlighted in the Section 168 Cr.P.C report, particularly regarding the initial non-cooperation of the complainant and the production of accused and case property in a manner inconsistent with the recovery memo.

5. A tentative assessment of the material available on record shows that no specific description or role of the applicant is mentioned in the FIR. No test identification parade has been conducted to establish the identity of the applicant. The complainant, in his statement under Section 168 Cr.P.C, appears to have been initially non-cooperative and later himself produced two accused persons along with case property, which is a glaring contradiction when examined against the memo of arrest and recovery. This discrepancy casts serious doubt on the manner in which the arrest and recovery were effected and raises concern about the veracity of the prosecution's version.

6. Furthermore, the alleged offence does not fall within the prohibitory clause of Section 497(1) Cr.P.C. The applicant has remained in custody and is no more required for further investigation. In such circumstances, where doubt arises regarding the prosecution's case and the offence does not fall under the prohibitory clause, the benefit of bail can be extended. Accordingly, the applicant Shabbir S/o Soomar is admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand Only) and P.R. bond in the like amount to the satisfaction of the learned trial Court. Needless to mention, the trial Court shall not be influenced by any observation made herein while deciding the case on merits.

J U D G E