

## ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Bail Appln. No. S-229 of 2024

Applicant	Moula Bux s/o Faqeer Muhammad Bahalkani,  through Mr. Saeed Ahmed Bijarani, Advocate
The State	Mr. Aitbar Ali Bullo, D.P.G for the State

Date of hearing: 20-05-2024

Date of Order: 20-05-2024

**SHAMSUDDIN ABBASI, J.-** Through instant criminal bail application the applicant/accused Moula Bux s/o Faqeer Muhammad Bahalkani, seeks post-arrest bail in Crime No. 33/2024, registered at Police Station B-Section Kandhkot, for the offence U/S 399, 402 P.P.C, after rejection of his bail plea by the learned trial court vide order dated 20.04.2024.

2. The facts of the prosecution case are that on 23.03.2024 complainant A.S.I. Muhammad Hassan Bahalkani lodged the F.I.R stating there in that he was on patrolling duty along with his staff, when they reached near Jiskani abandoned Brickling, he saw accused Manzoor, Heera @ Heero, Tillanur, Akram, Moula Bux and other accused, duty armed with K.Ks, the complainant party stopped government vehicle and asked the accused persons to surrender themselves but the accused persons fled away by taking shelter of trees and water course, thereafter the complainant returned back to P.S, where he lodged the F.I.R as stated above.

3. Learned counsel for the applicant/accused has contended that applicant/accused is innocent and he has falsely been implicated in this case; that no any specific role has been assigned to applicant accused; that applicant was not arrested from the scene of offence but allegedly has been arrested on the next day i.e. 24.03.2024; that no any incriminating article has been recovered from the possession of applicant as such the case of applicant calls for further inquiry in terms of Section 497(2) Cr.P.C. He has, therefore, prayed for grant of post-arrest bail to the applicant/accused.

4. On the other hand, learned Deputy Prosecutor General has vehemently opposed for grant of bail on the ground that applicant is nominated in heinous offence, therefore, he is not entitled for any leniency and prayed for dismissal of his bail application.

5. Heard learned counsel for the applicant, learned D.P.G. and perused the material available on the record.

6. Admittedly, as per prosecution case the police party proceeded to the place of incident on advance information but neither they joined any private person in proceedings nor any person from the public came forward to complain that he has been robbed. Furthermore, there is nothing on record to show that the applicant accused belongs to gang of thieves of dacoits, even no criminal record of applicant has been produced. The offence for which the applicant is charged does not come within the prohibitory clause of Section 497 Cr.P.C except Section 399 P.P.C, which too requires evidence to prove intention and preparation for dacoity. All the P.Ws are police personals. I am of the considered view that the case of applicant requires further inquiry in terms of Section 497(2) Cr.P.C.

7. From the tentative assessment of the material available on record, it appears that the applicant/accused has made out a good prima facie case for further enquiry, therefore, he is entitled for grant of post-arrest bail.

8. Accordingly, instant bail application is hereby allowed. Applicant/accused is admitted on post-arrest bail subject to his furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty thousand) and P.R bond in the like amount to the satisfaction of learned trial court.

9. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial court while deciding the case of either party at trial.

**J U D G E**

Abdul Salam/P.A