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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
1st. Crl Bail Appln. No. S-706 of 2023.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
<u>04.03.2024</u>	

1. For orders on office objection 'A'.
2. For hearing of bail application.

M/s Asif Ali Abdul Razak Soomro and Safdar Ali Ghouri, advocates for the applicant.

Mr. Afzal Nabi Khokhar, advocate along with complainant.

Mr. Aitbar Ali Bullo, D.P.G.

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For the reasons to be recorded later on, instant bail application is allowed. Consequently, applicant Makhno son of Nazir Mohammad Nindwani, shall be released on bail in Crime No.28 of 2011 registered with Police Station Karampur (District Kashmore @ Kandhkot), for offence punishable under sections 302, 337-H(ii), 148, 149, PPC, vide Sessions Case No.122/2019 (New) & Sessions Case No.312/2016 (Old), Re-State v. Ali Murad Nindwani & others, subject to his furnishing solvent surety in the sum of Rs.500,000/- (Rupees five hundred thousand) and P. R. bond in the like amount to the satisfaction of trial Court.


J. Y. Panhwar

M.Y.Panhwar/**

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IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA

(1) *Crl. Bail Appn. No. S- 706 of 2023.*

Applicant: Makhno Nindwani, through Messrs Asif Ali Abdul Razzak Soomro and Safdar Ali Ghouri, Advocates.

(2) *Crl. Bail Appn. No. S- 21 of 2024.*

Applicant: Saifuddin Nindwani, through Mr. Asif Ali Abdul Razzak Soomro, Advocate.

Complainant: Ghulam Hyder Nindwani, through Mr. Afzal Nabi Khokhar, Advocate.

Respondent: The State, through Mr. Aitbar Ali Bullo, Deputy Prosecutor General.

Date of hearing: 04.03.2024.

Date of order: 04.03.2024.

Date of reasons: 15.03.2024.

ORDER

Muhammad Saleem Jessar, J- The captioned two bail applications are being disposed of by this common order, as they are arisen out of the same case/ crime, i.e. F.I.R No.28 of 2011 registered at P.S Karampur (District Kashmore @ Kandhkot), for offences punishable under Sections 302, 337-H (2), 148 and 149 P.P.C. The Crl. Bail Appn. No. S- 706 of 2023 has been filed on behalf of applicant Makhno son of Nazar Muhammad Nindwani, whereas Crl. Bail Appn. No. S- 21 of 2024 has been filed on behalf of applicant Saifuddin son of Jaffar Nindwani. Earlier, the bail plea of the applicants was declined by Order dated 15.11.2023 passed by learned trial Court i.e. 1st Additional Sessions Judge, Kandhkot.

2. Learned counsel for the applicants at the very outset submitted that co-accused Ali Murad has been granted bail by this Court vide Order dated 18.09.2023 in Crl. Bail Appn. No. S- 424 of 2023, whereas other co-accused, namely, Shahmeer, Bazari and Khan Muhammad have also been granted bail by learned Courts below. Learned counsel has already placed on record attested copies of those orders. Per learned counsel, the case of the applicants is on same footings to that of co-accused, who have already been granted bail. Per learned counsel, the applicants, on the basis of rule of consistency, also deserves same concession and treatment.

3. Learned counsel Advocate for complainant does not controvert above position, but he half-heartedly opposed the grant of bail. Whereas, learned D.P.G. appearing for the State, in view above position, raised no objection to grant of bail to the applicants.

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4. Since, co-accused Ali Murad has been admitted to bail by this Court and case of present applicants appears to be mostly on same footings, therefore, rule of **consistency** or **parity** is applicable to their case and they also deserves the same concession and treatment to be meted out. Reliance in this regard can be had from the cases of the Apex Court i.e. *Mst. ASIVA V/S The STATE and another, 2023 S C M R 383. SHAHZAD V/S The STATE and another 2023 S C M R 679. Muhammad Fazal alias Bodi v. The State (1979 SCMR 9), Muhammad Ajmal v. The State (2022 SCMR 274) and Muhammad Usman Shakir v. The State (2021 SCMR 1880)*.

5. As far as the applicants' absconson is concerned, it is also a well settled law that mere absconson will not come in the way of granting bail, if a case for bail, is otherwise made out. In this regard, the Hon'ble Supreme Court of Pakistan, in the case of *MITHO PITAFI versus THE State reported in 2009 SCMR 299*, has observed that bail could be granted if the accused has a good case for bail on merits and mere his absconson would not come in the way while granting him bail. Further reliance can be placed in the case of *CHAIRMAN NAB through PGA NAB Islamabad V/S MUHAMMAD KHALID 2016 S C M R 676, and QAMAR alias MITHO V/S THE STATE and others P L D 2012 Supreme Court 222*.

6. Accordingly, in view of the above circumstances and the dicta laid down in the cases (*supra*) these bail applications were allowed vide short Order dated 04.03.2024, thereby the applicants Makhno and Saifuddin were granted bail upon their furnishing solvent surety each in the sum of Rs.500,000/- and P.R bonds in the like amount to the satisfaction of trial Court and these are reasons for the short order.



Judge

Aniari