

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
**Criminal Bail Application No. 122 of 2021**  
**Criminal Bail Application No. 689 of 2021**

Date	Order with signature of Judge
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*For hearing of Bail Application.*

**12.08.2021**

Mr. Muhammad Jibran Nasir, Advocate a/w applicant in Criminal Bail Application No. 122/2021.

Mr. Muhammad Akbar Awan, Advocate a/w applicant in Criminal Bail Application No. 689/2021.

Ms. Rubina Qadir, Deputy Prosecutor General, Sindh.

**ORDER**

**Muhammad Saleem Jessar, J:-** By this common Order, I intend to dispose of these bail applications as both arise out of one and same crime and common question of law as well facts are involve in both Applications.

The applicants have preferred their respective pre-arrest bail applications before the first forum, which by means of orders dated 06.01.2021 & 17.04.2021 were declined, hence, have maintained these bail applications before this Court.

Since the facts of the prosecution case are already mentioned in the impugned orders as well as FIR, which are annexed with Court file, therefore, there is no need to reproduce the same.

Mr. Muhammad Jibran Nasir, learned counsel for applicant Zeeshanullah in Criminal Bail Application No.122 of 2021 submits that though the applicant is nominated in FIR yet injury allegedly attributed to him is not specific; besides all the sections areailable except section 506/2 PPC, which carries maximum punishment upto seven years. He further submits that prior to this FIR, father of applicant Zeeshanullah moved an application to SHO, P.S concerned on 22.12.2020 but the SHO did not register his case instead by keeping him on false hopes got registered case of the complainant as the applicant had failed to grease his palms. He, therefore, submits that case against applicant Zeeshanullah requires further inquiry. He next submits that malafide on the part of complainant is evident in shape of documentary evidence, therefore,

applicant has made out a good prima facie case for his admission on pre-arrest bail. In support of his contention, he has placed reliance upon cases (i) *MUHAMMAD IDREES BUGSRA Versus The STATE (2018 MLD 1950)*, (ii) *ALI MURAD and others Versus The STATE (2019 YLR Note 21)*, (iii) *TARIQ BASHIR and 5 others Versus THE STATE (PLD 1995 Supreme Court 34)* and (iv) *MUHAMMAD ARSHAD Versus MUHAMMAD RAFIQUE and another (PLD 2009 Supreme Court 427)*.

Mr. Muhammad Akbar Awan, learned counsel for applicants Nadir Khan and Samiullah in Criminal Bail Application No.689 of 2021, submits that applicants are not nominated in FIR nor specific role has been attributed to them except oral version of the complainant. He, therefore, submits that case against applicants Nadir Khan and Samiullah also requires further inquiry.

On the other hand, learned Deputy P.G, Sindh opposes the bail applications on the ground that specific role of causing injury to the complainant is assigned to accused Zeeshanullah whereas medical evidence is also in affirmative. She further submits that applicants are not entitled for bail, as claimed. She; however, could not controvert the fact that all the sections applied under FIR are bailable except section 506/2 PPC and that too carries maximum punishment upto seven years if established by the prosecution after recording evidence of its witnesses.

**Heard arguments and perused record.** Admittedly, the parties are on strained relations over the issue claimed by accused Zeeshanullah in his application dated 22.12.2020 and the instant FIR was also delayed for about 24 hours. The injury allegedly sustained by the injured is bailable. As far as, section 506/2 PPC is concerned, it is yet to be established by the prosecution after recording evidence of its witnesses. Moreover, the case is being tried by Judicial Magistrate where after recording evidence of the parties if prosecution may prove its charge against applicants/accused, even then punishment of more than three years cannot be visualized.

In the circumstances and in view of dicta laid down by Honourable Supreme Court of Pakistan in case of *MUHAMMAD TANVEER Versus The STATE and another (PLD 2017 SC 733)*, case against applicants requires further inquiry within the meaning of sub-section 2 to section 497 Cr.P.C. Consequently, bail applications in hand are hereby allowed; interim bail granted earlier to applicant Zeeshanullah son of Abid Raza on 25.01.2021 in Criminal Bail Application No.122/2021 and applicants (i)

Nadir Khan and (ii) Samiullah son of Gulistan Habib on 23.04.2021, is hereby confirmed on same terms and conditions.

Before parting with this order; however, it is clarified that the reasoning given in this order are tentative in nature and will have no effect whatsoever in any manner upon the merits of the case.

Applicants present before the Court are directed to continue their appearance before the trial Court without negligence and in case they may misuse the concession or may temper with the prosecution's evidence then the trial Court is competent to take legal action against them as well to their surety in terms of Section 514 Cr.PC. Trial Court is also hereby directed to make necessary arrangements for securing attendance of the prosecution witnesses and conclude the trial within shortest possible time under intimation to this Court through MIT-II.

Let copy of this Order be communicated to trial Court through learned Sessions Judge, concerned. Learned MIT-II to ensure compliance.

Office is directed to place copy of this Order in connected bail application.

JUDGE

Zulfiqar/P.A