

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.271 of 2021

Date *Order with signature of Judge*

For hearing of Bail Application.

12.08.2021

Mr. Safdar Hussain Khaskheli, Advocate a/w Applicants (on bail).
Ms. Rubina Qadir, Deputy Prosecutor General, Sindh.

ORDER

Muhammad Saleem Jessar, J:- Through this application, applicants (i) Fiaz Muhammad Baloch, (ii) Aziz Ahmed Baloch, (iii) Wali Muhammad Baloch and (iv) Anees Ahmed Baloch seek their admission on pre-arrest bail in Crime No.812/2020 of Police Station Ibrahim Hyderi, Karachi, under Section 342/382/34 PPC. The bail plea preferred by the applicants before first forum was declined by means of order dated 03.02.2021, hence this bail application.

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

Heard arguments and perused record. Admittedly, complainant himself is the eye witness of incident and no other witness was nominated by him in his FIR to be witness of the occurrence; however, learned Deputy P.G, Sindh points out that one Shahzeb has been shown to be eye witness and his statement has been recorded by the I.O on 26.11.2020 in terms of section 161 Cr.P.C. The sections applied under the FIR viz. 342 PPC isailable whereas section 382 PPC is yet to be established by the prosecution after recording evidence of the parties. The case is being tried by Judicial Magistrate, therefore, after recording evidence of the parties, if prosecution may prove its charge against 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 *TARIQ BASHIR and 5 others Versus THE STATE (PLD 1995 Supreme Court 34)* which was followed 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. Accordingly, instant bail application is hereby allowed; interim bail granted earlier to applicants **(i) Faiz Muhammad Baloch son of Muhammad Ashraf, (ii) Aziz Ahmed Baloch son of Muhammad Ashraf, (iii) Wali Muhammad Baloch son of Sher Muhammad and (iv) Anees Ahmed Baloch son of Muhammad Ashraf** on 15.02.2021 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.

JUDGE

Zulfiqar/P.A