

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**Criminal Bail Application No.1642 of 2020**

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*Date* *Order with signature of Judge*

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*For hearing of Bail Application.*

**17.02.2021**

Applicant Sadam Hussain, present in person (on bail).  
Mr. Muntazir Mehdi, Addl. Prosecutor General, Sindh.

**ORDER**

**Muhammad Saleem Jessar, J:-** Through this application, applicant Sadam Hussain Khaskheli seeks his admission on pre-arrest bail in Crime No.246/2020 of Police Station Sujawal, under Section 337-A(ii)/337-L(2)/504/34 PPC. The bail plea preferred by him before first forum was declined by means of order dated 22.09.2020, hence this bail application.

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

Applicant present in person on bail, submits that complainant himself filed an application before the Medical Superintendent/Civil Surgeon Hospital, Hyderabad for constituting a special medical board; however, injured Baseer Hussain had never appeared before the board on three consecutive dates viz. 16.12.2020, 13.01.2021 & 03.02.2021. In support of his contention, he submits photostate copy of letter bearing No.CS/HYD/(Injured No.3212)/-3185/92/-Hyderabad, dated 04.02.2021 issued by Medical Superintendent, Services Hospital, Hyderabad, same is hereby taken on record.

Learned Addl. P.G, Sindh, after going through said document, extends his no objection on the ground that punishment provided by the law is 5 years; besides injured did not appear before the special medical board; hence, medico legal certificate issued in respect of injured Baseer Hussain has been put under suspension.

**Heard arguments and perused record.** Apparently, the incident took place on 02.09.2020; whereas, the report thereof, was lodged on 08.09.2020 with the delay of about more than 6 days though the distance between P.S and place of occurrence is only 5 km, therefore, malafide on the part of prosecution cannot be ruled out. The injury allegedly sustained by injured PW Baseer Hussain though is shown to have landed on his head; however, the punishment provided by the law for such an injury is not more than 5 years, therefore, does not exceed the limits of prohibitory clause of section 497 Cr.P.C; besides, injured did not appear before the special medical board. Consequently, medico legal certified issued in favour of the injured has been placed under suspension, therefore, veracity of the medical evidence, in view of above development, has been put upon stake and the case against applicant requires further inquiry within the meaning of subsection 2 to section 497 Cr.P.C. The case has been challend, therefore, accused after furnishing surety before this Court, has surrendered before the trial Court and no complaint has been made for misuse of concession extended to him. In the circumstances and in view of dicta laid down by the Hon'ble Supreme Court of Pakistan in case of *MUHAMMAD TANVEER Versus The STATE and another (PLD 2017 SC 733)*, instant bail application is hereby allowed; interim bail granted earlier to applicant **Sadam Hussain Khaskheli son of Karim Bux Khaskheli** on 27.10.2020 is hereby confirmed on same terms and conditions.

Applicant present before the Court is directed to continue his appearance before the trial Court without negligence and in case he may misuse the concession or may temper with the prosecution's evidence then the trial Court is competent to take legal action against him as well to his 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, over fax, for compliance.

**JUDGE**