

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No. 1169 of 2021
Criminal Bail Application No. 1296 of 2021

Date	Order with signature of Judge
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For hearing of bail application :

26.10.2021 :

Mr. Muhammad Zareen Khan, advocate for the applicants / accused.

Mr. Waseem Hussain Awan, advocate for the complainant.

Mr. Siraj Ahmed Khan, Addl. P.G.

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NADEEM AKHTAR, J. – Through this common order, I intend to dispose of both these bail applications arising out of Crime No.259/2021 registered against the present applicants / accused on 09.06.2021 at P.S. Baloch Colony Karachi East under Sections 337-L(ii), 334 and 34 PPC. Pre-arrest Bail Application No.2091/2021 was filed by the applicant / accused Muhammad Hashim Iqbal, and post-arrest Bail Application No.2118/2021 was filed by the applicant / accused Muhammad Abid Iqbal. The aforesaid bail applications filed by them were dismissed by the learned trial Court vide separate orders, both dated 17.06.2021. Through the instant bail applications, the applicants / accused Muhammad Hashim Iqbal and Muhammad Abid Iqbal have sought admission to pre-arrest and post-arrest bail, respectively. Vide order dated 21.06.2021, interim bail before arrest was granted to the applicant Muhammad Hashim Iqbal subject to his furnishing solvent surety in the sum of Rs.100,000.00 and a P.R. bond for the same amount to the satisfaction of the Nazir of this Court.

2. According to the subject FIR lodged by the complainant Muhammad Yamin S/O Muhammad Bashir, the applicant Muhammad Abid Iqbal is his son-in-law and the applicant Muhammad Hashim Iqbal is the brother of Muhammad Abid Iqbal ; he went to see his daughter on 13.05.2021 at her house when both the applicants were present ; they did not allow him to meet his daughter and due to this reason they started fighting with him ; and, during such fight, he was injured by the applicants.

3. Perusal of the FIR shows that the complainant was allegedly injured by both the applicants, therefore, their role in the FIR is the same. Prima facie, there appears to be a family dispute between the parties and admittedly their relations have remained strained. The alleged incident took place on 13.05.2021, however, the FIR was registered on 09.06.2021 after a long and

unexplained delay of 27 days. In the above circumstances, the matter requires further inquiry in my opinion. While conceding that the applicants do not have any previous criminal record, learned Addl. P.G. states that the charge sheet has been submitted in this case before the learned trial Court. The applicant Muhammad Hashim Iqbal has been granted interim pre-arrest bail, whereas the applicant Muhammad Abid Iqbal, who is stated to be a differently abled person, is behind the bars since last about four and a half months.

4. Record shows that a Special Medical Board was constituted to examine the injury allegedly suffered by the complainant, but till date no conclusive finding could be given by the said Board as the complainant did not appear for examination ; and, due to this reason, the Medico Legal Certificate issued in relation to the complainant has been suspended / kept in abeyance by the Medical Superintendent, Services Hospital and Civil Surgeon, Karachi, vide letter dated 31.07.2021. It is stated on behalf of the complainant that he did not receive any notice for appearing before the said Board. Be that as it may, the fact remains that the conclusive finding of the said Board regarding the injury allegedly suffered by the complainant is yet to be submitted.

5. Admittedly, investigation in this case has been completed and the charge sheet has been submitted before the trial Court. Therefore, the applicants shall not be required for any further investigation, and there is no question or probability that the evidence will be tampered with by them or that the prosecution witnesses will be influenced by them if they are enlarged on bail. Their guilt or innocence is yet to be established as it would depend on the strength and quality of the evidence that will be produced by the prosecution and the defense before the trial Court.

6. In the above circumstances, learned A.P.G. states that he has no objection if the concession of bail is granted to the applicants by confirming the interim pre-arrest bail granted to the applicant Muhammad Hashim Iqbal, and post-arrest bail is granted to the applicant Muhammad Abid Iqbal.

7. Accordingly, the interim pre-arrest bail granted to the applicant Muhammad Hashim Iqbal vide order dated 21.06.2021 is hereby confirmed on the same terms and conditions ; and, post-arrest bail is granted to the applicant Muhammad Abid Iqbal subject to his furnishing solvent surety in the sum of Rs.100,000.00 and a P.R. bond for the same amount to the satisfaction of the learned trial Court.

It is clarified that the observations made herein are tentative in nature which shall not prejudice the case of either party nor shall they influence the learned trial Court in any manner in deciding the case strictly on merits in accordance with law.

Both these bail applications are disposed of in the above terms.

J U D G E