

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**Criminal Bail Application No.2104 of 2021**

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*Date* *Order with signature of Judge*

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*For hearing of Bail Application.*

**07.02.2022**

Mr. Fateh Muhammad, Advocate along with Applicant (on bail).  
Mr. Zahoor Shah, Deputy Prosecutor General, Sindh along with ASI  
Muhammad Arif of P.S Shahrah-e-Faisal, Karachi.

**ORDER**

**Muhammad Saleem Jessar, J:-** Through this application, applicant Arsalan Ahmed seeks his admission on pre-arrest bail in Crime No.362/2019 of Police Station Shahrah-e-Faisal, Karachi, under Section 489-F PPC. The applicant preferred his anticipatory bail before the Court of Sessions wherefrom it was assigned to 2<sup>nd</sup> Addl. Sessions Judge, Karachi (East) vide Criminal Bail Application No.4391/2021 (re-Arsalan Ahmed Versus The State), who after hearing the parties, has turned down his request through order dated 16.10.2021; hence, instant bail application has been maintained.

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

3. In compliance of earlier order, ASI Muhammad Arif of P.S Shahrah-e-Faisal, Karachi present, submits compliance report along with death certificate of deceased complainant, bearing No.CRMS No.D422023-20-0057 issued by Secretary U.C 10 & T & I, Gulshan-e-Iqbal Town, Karachi, which reveals that complainant Muhammad Yousuf expired on 16.12.2020. He further submits that the case has been challaned which is now pending for trial before the Court of 25<sup>th</sup> Judicial Magistrate, Karachi (East), where the charge has been framed.

4. Learned Deputy P.G, Sindh submits that complainant has expired; however, entire case of prosecution is based on documentary evidence which is in custody of the prosecution itself; besides, offence does not fall within prohibitory clause of Section 497 Cr.P.C. Hence, he concedes.

5. **Heard arguments and perused record.** Admittedly, the amount involved in this case is Rs.10,00,000/- which is not a huge one; besides, the case has been challaned by the police where after recording evidence of the parties, if prosecution may succeed to prove its charge against him even then punishment of more than three years cannot be visualized. The complainant of this case has expired; however, the trial Court is directed to call his legal heirs and other witnesses to conclude the trial within shortest possible time.

6. 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)*, case against the applicant requires further inquiry within the meaning of sub-section 2 to section 497 Cr.P.C. Consequently, instant bail application is hereby allowed; interim bail granted earlier to applicant **Arsalan Ahmed son of Abdul Jabbar** on 09.11.2021 is hereby confirmed on same terms and conditions.

7. 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.

8. 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.P.C. 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.

9. 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