

## IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

**Crl. Bail Application No. S- 770 of 2020**  
**Crl. Bail Application No. S- 27 of 2021**

For hearing of bail applications

Mr. Sohail Ahmed Khoso Advocate along with Applicants.  
Mr. Shafi Muhammad Mahar, Deputy P.G for the State.

**Date of Hearing: 01-02-2021**  
**Date of Order: 01-02-2021**

### **ORDER**

**Aftab Ahmed Gorar J.** On 18.01.2021, notice was ordered to be issued to complainant Moulana Shahzado Dreho through President, High Court Bar Association with caution that in case complainant fails to appear and/or argue the matter, instant bail application will be heard and decided with the assistance of learned Additional P.G and matter was adjourned for 25.01.2021, when complainant remained absent and it was ordered that there is no need to repeat the notice to complainant. Today, complainant is also called absent.

2. Applicants Ghulam Shabbir and Mujeeb Ali Dreho seek pre-arrest bail in Crime No. 41 of 2018, registered at P.S, A-section, Site Area Sukkur, for offence under Sections 392, 364, 511, 114, 506/2, 337A(i), 337F(i), 120, 147 and 148, PPC. Earlier the bail plea of the applicant was declined by learned Additional Sessions Judge (Hudood), Sukkur vide orders dated 18.12.2020 and 24.12.2020 respectively.

2. Heard learned counsel for the Applicants and learned Deputy P.G for the State. Learned Deputy P.G for the State recorded no objection for the confirmation of interim pre-arrest bail earlier granted to the applicants by Court on the ground of rule of consistency as co-accused Abdul Jabbar, Khan Muhammad and Niaz Muhammad have been granted pre-arrest bail by this Court vide order dated 21.01.2019, passed on Crl.B.A.No.S-562 of 2018, whereas, co-accused Israr Ahmed and Ali Gohar have been admitted to bail by learned 2<sup>nd</sup> Additional

Sessions Judge, Sukkur and the role attributed to the present applicants is almost similar and identical to that of said co-accused.

3. Admittedly, complainant and accused are on longstanding dispute/enmity, as admitted in the FIR by the complainant and there is also delay of about one month in lodgement of FIR, which gives presumption of false implication of applicants after due deliberation and consultation. Moreover, after registration of FIR, investigation was carried out and the FIR of this incident was recommended to be disposed of under C-class, but learned Magistrate did not concur with the opinion of the I.O and took cognizance of the matter. No doubt, the opinion of I.O is not binding upon the Court, but the same cannot be lost sight while deciding the bail application. Perusal of FIR reflects that applicant Ghulam Shabbir is alleged to have caused lathi blow to complainant hitting on his legs and fingers, whereas, applicant Mujeeb is alleged to have caught hands and foots of complainant. However, co-accused named above with almost similar and identical role have been admitted to bail by this Court as well as learned trial Court, as stated supra. In such a situation, the participation of the applicants in the commission of alleged offence so also applicability of above sections are yet to be determined at the trial after recording evidence. It is also a well settled principle of law that bail could be granted, if accused has got good case on merits than mere his absconsion would not come in his way while granting him bail.

4. Furthermore, after grant of interim bail, applicants are regularly attending the trial court as well as this Court and there is no complaint from trial Court regarding misuse of concession of bail granted to the applicants by this court, therefore, learned Deputy P.G for the State is justified in recording no objection to the confirmation of interim bail earlier granted to the applicants by this Court.

5. For what has been discussed above, I am of the considered view that the applicants have succeeded to make out a case for confirmation of their interim pre-arrest bail, earlier granted to them by this Court. Accordingly, in view of the above so also following the rule of

consistency, interim pre-arrest bail, already granted to the applicants by this Court is hereby confirmed on same terms and conditions.

6. The captioned Crl. Bail Applications stand disposed of in the above manner.

**J U D G E**

Ahmad