

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

Cr. Bail Application No. 1780 of 2021

Cr. Bail Application No. 1781 of 2021

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGES</b>
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For hearing of bail application.

**29<sup>th</sup> November, 2021**

Mr. Tahir Mehmood, Advocate a/w applicants Muhammad Jawed and  
Muhammad Waqar.

Mr. Talib Ali Memon, APG a/w ASI Atif Nawaz.

Mr. Nadeemul Haq, Advocate for complainant.

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Omar Sial, J: Muhammad Jawed and Muhammad Waqar have sought pre-arrest bail in crime number 280 of 2021 registered under sections 447, 448, 420, 468, 471, 506 and 34 P.P.C at the Gabol Town police station while Muhammad Hamayun has sought post arrest bail in the same crime. Earlier their applications seeking bail were dismissed on 6-9-2021 by the learned 6<sup>th</sup> Additional Sessions Judge, Karachi Central by separate orders. Both the bail applications pertain to the same F.I.R. thus the same are being disposed of by this common order.

2. The aforementioned F.I.R. was lodged by Mazahir Hussain on 6-7-2021 reporting an incident that had occurred 5 years ago in May, 2016. He recorded that he and his father had purchased a plot of land in the year 1999 which was transferred in his name in the year 2008. In 2016 when he was out of the country he learnt that the applicants had taken over the property on the basis of a fake lease deed. He returned to Pakistan in the year 2021 and made inquiries in which he learned that the lease deed in his name was genuine and that in the name of the applicants was a fake one. On this information the F.I.R. was lodged.

3. I have heard the learned counsel for the applicants as well as the learned counsel for the complainant and the learned Assistant Prosecutor General. My observations and findings are as follows.

4. All offences with which the applicants are charged are bailable ones except that under section 468 P.P.C. Section 468 P.P.C. provides that whoever commits forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description

for a term which may extend to seven years, and shall also be liable to fine. There is a letter from KDA on record that indicates that the property documents with the applicants are not genuine. Be that as it may, it is not the role of the court while dealing with a criminal case to adjudicate on issues of ownership. As far as the alleged forgery is concerned, it can only be determined at trial after evidence has been recorded. Whether the documents of property with the applicants are forged and whether it is they who committed the forgery or whether they were the victims themselves of irregularities in the KDA, will have to be determined at trial. There is no sufficient evidence at the moment to establish the guilt of the applicants in this connection. Further no cogent reason has been given as to why the complainant, when he himself admits that the property was taken over by the applicants in the year 2016, did he wait for five years before registering his complaint. This aspect becomes important as it appears from the record that the mother of one of the applicants had registered an F.I.R. ostensibly against the family of the complainant as far back as 2011. The malafide on the part of the complainant cannot conclusively be ruled out at this stage. All these aspects require a further inquiry. The punishment for an offence under section 468 carries a potential sentence of up to seven years and though non-bailable falls within the non-prohibitory clause of section 497 Cr.P.C. Keeping the principles enunciated in Tariq Bashir and 5 others versus The State (PLD 1995 SC 34) in mind, I do not find any exceptional or extraordinary reasons to deny the applicants bail.

5. In view of the above, the applicant Muhammad Hamayun is admitted to post arrest bail subject to his furnishing a solvent surety in the sum of Rs. 200,000 and a P.R. Bond in the like amount to the satisfaction of the learned trial court. The interim pre-arrest bail granted to the applicants Muhammad Jawed and Muhammad Waqar vide order dated 20-9-2021 is confirmed on the same terms and conditions.

JUDGE