

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

**Before;-**  
**Mr. Justice Naimatullah Phulpoto**  
**Mr. Justice Amjad Ali Bohio**

**Cr. Bail Application No. D- 44 of 2023**

Applicant : Irfan Ali alias Fouji Junejo, through  
Mr. Sohail Ahmed Khoso, Advocate

**Cr. Bail Application No. D- 45 of 2023**

Applicants : Akhtiar alias Akhoo and Irfan Ali alias  
Fouji Junejo, through Mr. Sohail Ahmed  
Khoso, Advocate

**Cr. Bail Application No. D- 52 of 2023**

Applicants : Lal Bux, Soomar and Gulsher, through  
Mr. Rukhsar Ahmed M. Junejo, Advocate

Respondents : The State through Syed Sardar Ali  
Shah Rizvi, Additional PG for the State

Date of hearing: **26.07.2023**  
Date of order: **26.07.2023**

**ORDER**

**NAIMATULLAH PHULPOTO, J.-** Applicants/accused, namely, Akhtiar alias Akhoo, Irfan Ali alias Fouji, Lal Bux, Soomar and Gulsher, all by caste Junejo, seek post-arrest bail in case arising out of FIR No.166 of 2015 registered at Police Station, Sobhodero, District Khairpur for offence under Sections 324, 353, 216, 148, 149 PPC, 4/5 Explosive Substances Act, 7 Anti-Terrorism Act, 1997 and 23(1) Sindh Arms Act, 2013, whereas, applicant/accused Irfan Ali alias Fouji also seeks post-arrest bail in off shoot / connected case arising out of FIR No.167/2015 u/s 23(i) Sindh Arms Act, 2013. Previously, the applicants/accused applied for the same relief before Anti-Terrorism Court, Khairpur, same was rejected vide impugned order dated

20.06.2023. By this single order, we intend to decide aforesaid bail applications.

2. Learned advocate for the applicants/accused mainly contended that co-accused Shahzado has already been granted bail by this Court vide order dated 21.04.2016 and the case of the present applicants is identical to that of co-accused. It is further submitted the applicants/accused are in custody since 2016 yet the trial has not been concluded. He lastly argued that according to prosecution case, there was exchange of fires from both sides with sophisticated weapons, none received a single injury from either side. In support of his contentions, he has relied upon the case of Muhammad Shafi and others vs. The State and others (2016 SCMR 1593).

3. Learned Additional PG for the State opposed the bail applications on the ground that there is progress in the trial and evidence of two prosecution witnesses has been recorded.

4. We have heard the learned counsel for the parties and perused the record.

5. It appears that co-accused Shahzado has been granted bail by this Court in Criminal Bail Application No.D- 226 of 2016 vide order dated 21.04.2016, the relevant portion thereof is reproduced as under;-

"6. From tentative assessment of the record and the material collected by the prosecution, it appears that no specific role has been assigned to the present applicant with the alleged offence of police-encounter, whereas, no one has received any firearm injury in spite of the allegation that such police-encounter continued for about 10 minutes, even no vehicle has been shown to have been damaged out of such police-encounter and alleged continuous firing from both sides. The raid of the police on the basis of alleged spy information at the place of incident and the arrest of the present applicant also appears to be

doubtful, as no independent mashir has been associated while preparing the mashirnama of vardat and arrest as no explanation for violating the provisions of section 103 Cr.P.C has been given. The fact of filing criminal miscellaneous application under Section 491 Cr.P.C by the brother of the present applicant on 03.11.2015 alleging illegal arrest of the applicant and his father along with other persons on 02.11.2015 by the police has not been disputed, which also creates doubt in the prosecution story, according to which arrest of applicant Shahzado has been shown by the police in Crime No.166/2015 on 07.11.2015”.

6. Learned Additional Prosecutor General could not controvert that the case of the applicants/accused is identical to the case of co-accused, namely, Shahzado to whom the concession of bail has already been granted by this Court. It is also fact that grant of bail to the co-accused Shahzado has not been challenged by the State before the Supreme Court. Moreover, it was the case of cross firing with sophisticated weapons but none received injury in the encounter. It further appears that the applicants/accused are in custody since 2016. Yet trial is not concluded.

7. For the above stated reasons, the applicants/accused are entitled to the grant of bail in the main case / crime arising out of FIR No.166 of 2015 of Police Station, Sobhodero under Sections 324, 353, 216, 148, 149 PPC, 4/5 Explosive Substances Act, 7 Anti-Terrorism Act, 1997 and 23(1) Sindh Arms Act, 2013. The applicants/accused, namely, Akhtiar alias Akhoo, Irfan Ali alias Fouji, Lal Bux, Soomar and Gulsher are admitted to post-arrest bail subject to furnishing solvent surety in the sum of Rs.200,000/- (Two Lac) each and P.R bond in the like amount to the satisfaction of trial Court.

8. Since the applicant/accused, namely, Irfan Ali alias Fouji is admitted to bail in the main crime, therefore, he is also granted bail in Crime No.167/2015 registered at Police Station, Sobhodero under

Section 23(1) of the Sindh Arms Act, 2013, in the sum of Rs.50000/- (Fifty thousand) and PR bond in the like amount to the satisfaction of the trial Court.

9. Needless to say that the observations made hereinabove are tentative in nature and will not prejudice the case of either party at the trial.

Judge

Judge

ARBROHI