

# **IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.**

Criminal Bail Application No.S-887 of 2023

Applicants: Shahid Hussain @ Deedar, Abdul Ghafoor @ Ghafoor and Mour through Mr. Muhammad Iqbal Qassar, Advocate.

Respondent: The State through Ms. Rameshan Oad, Assistant Prosecutor General, Sindh.

Date of hearing: **11.09.2023**  
Date of Order: **11.09.2023**

## **O R D E R**

**ZULFIQAR ALI SANGI, J:-** Applicants Shahid Hussain @ Deedar, Abdul Ghafoor @ Ghafoor and Mour seek post arrest bail in Crime No.66 of 2022 registered under sections 392, 34 P.P.C at P.S Tando Bago. Earlier their application seeking same relief was dismissed by learned 1<sup>st</sup> Additional Sessions Judge / MCTC Badin vide order dated 14.07.2023.

2. Complainant Doctor Isar has alleged that he being Manager of salam Takaful Insurance Company was contacted by accused persons to see their cattle and to make insurance thereof. He along-with PWs reached at Tando Bago Khadro Road in order to settle insurance matter of cattle but the accused persons robbed him and his fellows with cash of Rs.117,000/- along-with valuables details whereof mentioned in FIR, hence this case was registered.

3. Learned counsel for applicant argued that applicants / accused are innocent have falsely been implicated in this case by the complainant; that complainant failed to produce EMI number of mobile cell which was allegedly used by the complainant at the time of incident; that no private person was associated in the alleged offence; that the applicants are nothing to do with the alleged offence as complainant committed fraud with the accused as they received installments of insurance of cattle but they refused to pay insurance amount; that the applicants are in custody about last more than two months without effective progress in their trial. Lastly he submits that the offence does not fall within the prohibitory clause of section 497 Cr.P.C, therefore, prays that applicants may be enlarged on post arrest bail.

4. Learned Assistant Prosecutor General, Sindh for the State has strongly opposed the grant of bail to the applicants by contending that allegedly applicants were available at place of offence for committing robbery and they robbed huge money as well as valuables from the complainant party, as such, they are not entitled for grant of bail and their bail application may be dismissed.

5. I have heard the learned counsel for the applicants as well as the learned Assistant Prosecutor General, Sindh and have also gone through the material available on the record with their able assistance.

6. Admittedly during course of investigation I.O of the case failed to produce any documentary evidence which could suggest that a company in the name of Salam Takaful for cattle insurance is actually exists. Complainant in his crime report failed to produce EMI number of mobile phones alleged to have been robbed from him and his companions at the time of alleged offence. Even otherwise, the report under section 173, Cr.P.C (Challan) has already been submitted on 22.05.2023 but since then there is no progress in the trial even no alleged article has since been recovered from present applicants during course of investigation which has already been completed, therefore, further incarceration of the applicants behind the bars would not serve any beneficial purpose for the prosecution.

7. Evidence collected by I.O is in documentary shape which is in possession of prosecution hence same cannot be tampered by the present applicants who are even not previously convicted or involved in any other similar case. In the case of ***Muhammad Imran V. The State and others (PLD 2021 SC 903)*** the Hon'ble Apex Court has formulated the grounds for the case to fall within the exception meriting denial of bail as (a) the likelihood of the petitioner's abscondence to escape trial; (b) his tampering with the prosecution evidence or influencing the prosecution witnesses to obstruct the course of justice; or (c) his repeating the offence keeping in view of his previous criminal record or the desperate manner in which he has prima facie acted in the commission of offence alleged. Further Honourable Supreme Court held in the said order that the prosecution has to show if the case of the petitioner falls within any of these exception on the basis of the material available on the record. In the case in hand the prosecution has failed to establish any of the above ground meriting denial of the application of the applicants. It is also settled by the Honourable Apex Court that deeper appreciation of the evidence is not permissible while deciding the bail application and the same is to be decided tentatively on the basis of material available on the record.

8. From the tentative assessment of the record the applicants have made out their case for grant of bail. Resultantly, this application is allowed and the applicants are granted bail subject to furnishing their solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand) each and P.R bonds in the like amount to the satisfaction of the Trial Court.

9. The bail application stands disposed of in the above terms.

JUDGE

Muhammad Danish \*