

# IN THE HIGH COURT OF SINDH, KARACHI

## **Criminal Bail Application No. 1809 of 2024**

<i>Date</i>	<i>Order with signature of Judge</i>
<b>Applicants</b> 1. Hassan Alam son of Noor Alam 2. Muhammad Rashid son of Allauddin (present on bail)	: through Mr. Muhammad Umar Panhwar, Advocate
<b>The State</b>	: Through Mr. Saleem Akhtar Buriro, Addl. Prosecutor General, Sindh along with SIP Mushtaq of P.S Mominabad, Karachi
<b>Date of hearing</b>	: 07.10.2024
<b>Date of order</b>	: 07.10.2024

### **ORDER**

**Muhammad Saleem Jessar, J:-** Through this application, applicants Hassan Alam and Muhammad Rashid seek their admission to pre-arrest bail in Crime No.339 of 2024 registered with Police Station Mominabad, Karachi, for the offences punishable to Section 147, 148, 149, 353 & 186 PPC. The applicants preferred their anticipatory bail before the Court of Sessions wherefrom it was assigned to Addl. Sessions Judge-XII, Karachi (West) vide Criminal Bail Application No.3157 of 2024 (re-Hassan Alam and another Versus The State), who after hearing the parties, has turned down their request through order dated 29.07.2024; 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. Learned counsel for the applicants submits that offence(s) with which applicants have been charged, are bailable and in bailable offence bail becomes right of the accused, therefore, prays for confirmation of the bail.

4. On the other hand, learned Addl. P.G, Sindh appearing for the State, opposes the bail application; however, he could not controvert the fact that offences with which accused stand charged, are bailable.

5. **Heard arguments and perused record**. No doubt, the applicants are nominated in the FIR; however, the offences with which applicants have been charged, are bailable. It is settled-cum-recognized principle of law that grant of bail in bailable offence is the right of an accused even once bail granted in bailable offence cannot be cancelled. Reference can be had from the dicta laid down by Hon'ble Supreme Court of Pakistan in case of Mian MAHMUD ALI QASURI AND OTHERS Versus THE STATE (PLD 1963 Supreme Court 478) whereby learned Bench had laid down esteemed dicta in concluding para of the judgment which reads as under;)\_

*“... .. The policy of the Code seems to be that in the case of bailable offences the person accused has the indefeasible right to grant of bail subject of course to satisfactory sureties being offered, if sureties are considered necessary. There is admittedly no provision in the Code permitting cancellation of such a bail. Bail is not a mere privilege in such cases but a right of the subject whose liberty is regarded as a precious asset to the preserved undiminished... ..”*

6. In instant case, though the offences are bailable and per settled principle of law, grant of bail in bailable offences is indefeasible right of the accused even then their request was turned down by the Court below on flimsy grounds and such practice has not been approved by the superior Courts.

7. I am also fortified with dicta laid down by the Hon'ble Supreme Court of Pakistan in case of TARIQ BASHIR and 5 others Versus THE STATE (PLD 1995 Supreme Court 34), which was again recognized and maintained by the Hon'ble Supreme Court of Pakistan in case of MUHAMMAD TANVEER Versus The STATE and another (PLD 2017 SC 733). In para-6 of the order in case of Muhammad Tanveer (Supra), following dicta has been laid down;\_

*“6. We are shocked and disturbed to observe that in cases of this nature, not falling within the prohibition contained in*

*section 497, Cr.P.C., invariably grant of bail is refused on flimsy grounds. This practice should come to an end because the public, particularly accused persons charged for such offences are unnecessarily burdened with extra expenditure and this Court is heavily taxed because leave petitions in hundreds are piling up in this Court and the diary of the Court is congested with such like petitions. This phenomenon is growing tremendously, thus, cannot be lightly ignored as precious time of the Court is wasted in disposal of such petitions. This Court is purely a constitutional Court to deal with intricate questions of law and Constitution and to lay down guiding principle for the Courts of the country where law points require interpretation."*

8. The case has been challaned which is now pending before the Court of Civil Judge & Judicial Magistrate-XVIII, Karachi (West) where it is fixed today for framing of charge.

9. In the circumstances and in view of dicta laid down in the cases referred to above, case against the applicants requires further inquiry in terms of subsection (2) to section 497 Cr.P.C. Consequently, instant bail application is hereby allowed; interim bail granted earlier to applicants **Hassan Alam son of Noor Alam and Muhammad Rashid son of Allauddin** on 12.08.2024 is hereby confirmed on same terms and conditions.

10. Applicants present before the Court are directed to continue their appearance before the trial Court without negligence and in case they may misuse the concession or may temper with the prosecution's evidence then the trial Court would be competent to take legal action against them as well to their surety(ies) in terms of Section 514 Cr.PC. 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.

11. Let copy of this Order be communicated to trial Court through learned Sessions Judge, concerned. Learned MIT-II to ensure compliance.

**JUDGE**

Approved for Reporting  
Zulfiqar/P.A