

## IN THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Application No.899 of 2024

Present:

Justice Zafar Ahmed Rajput

Justice Tasneem Sultana

Applicant	:	Shaikh Muhammad Shoaib s/o Shaikh Asghar Ali, through Mr. Aamir Mansoob Qureshi, Advocate.
Respondent	:	The State, through Mr. Ali Haider Saleem, Additional Prosecutor General, Sindh.
Complainant	:	Mst. Saira Bibi w/o Muhammad Shafi ( <i>nemo</i> ).
Date of hearing	:	<b>08-04-2025</b>
Date of order	:	<b><u>05-05-2025</u></b>

### ORDER

**TASNEEM SULTANA, J.** Through this Crl. bail application, applicant/accused, Shaikh Muhammad Shoaib s/o Shaikh Asghar Ali, seeks post-arrest bail in Crime No.247 of 2015, registered at P.S Mubina Town, Karachi-East under sections 265-A/34, PPC read with section 7 of the Anti-Terrorism Act, 1997.

2. Precisely facts of the prosecution case are that, pursuant to the order, dated 03.09.2015, passed by this Court in C.P No. D-4348 of 2015, abovesaid FIR was lodged by the complainant, Mst. Saira Bibi, alleging therein that, on 20.09.2014 at 9.30 p.m., police personnel illegally took her son Muhammad Sharif from a hotel, situated at Scout Colony. On 25.09.2014, she filed an application at P.S. Mubina Town regarding missing / abduction of her said son; thereafter, on 04.10.2014, her husband, Muhammad Shafi filed Const. Petition No. D-5216 of 2014. Pursuant to the notice of said Petition, on 18.04.2015 at 9.30 p.m., the applicant brought her son at house in injured condition and pressurized her to withdraw said Petition and demanded Rs. 500,000/- as ransom and issued threats to kill her son.

3. Learned counsel has contended that the applicant was granted interim pre-arrest bail by the Trial Court, which was confirmed on 10.07.2017; thereafter, he attended the Trial Court regularly; however, as another FIR bearing No. 40/2018 (known as Naqeebullah Mehsud murder case) was lodged and Mehsud tribe was at high peak against him, the applicant under compelling circumstances went underground to save his life and, on account of his absconsion, the Trial Court, vide order dated 24.03.2018, kept the case on dormant file; that as in the month of January, 2023, nineteen co-accused were acquitted of the charge in FIR No. 40/2018, the applicant came on surface and after getting protective bail from this Court, he surrendered before the Trial Court by filing Bail Before Arrest Application No. 238/2023 and obtained interim pre-arrest bail on 23.05.2023, which was, subsequently, dismissed for non-prosecution on 09.02.2024; then he filed Bail Before Arrest Application No. 2115/2024, which was dismissed, vide order dated 12.03.2024, and he was taken into custody by the Trial Court; thereafter, he filed post-arrest bail in Special Case No. 1865/2017, which was also dismissed by the Trial Court vide order dated 28.03.2024; that the abscondence of the applicant was neither deliberate nor willful but due to subsequent event wherein his life was endanger.

4. Conversely, the learned Addl. P.G. Sindh has opposed the instant bail application on the ground that the applicant is a fugitive from law.

5. Heard, perused the record.

6. It appears that after getting confirmed pre-arrest bail vide order, dated 10.07.2017, the applicant absconded on 20.01.2018, consequently, his case was kept on dormant file, vide order dated 24.03.2018; however, it does not transpire from record if requisite formalities of section 87 & 88,

Cr. P.C. were ever fulfilled by the trial Court. It is matter of record that, on 19.05.2023, the applicant surrendered before the Trial Court and sought pre-arrest bail; however, the Trial Court declined his pre-arrest bail vide order dated 12.03.2024 and he taken into judicial custody; thereafter, his post-arrest bail application was also declined by the Trial Court, vide order dated 28.03.2024 and since then the applicant is in judicial custody. Prima facie, the abscondence of the applicant from trial court after obtaining bail on merit was due to subsequent occurrence as he feared a serious backlash from complainant party of Crime No. 40 of 2018. The applicant is confined in judicial custody for last more than one year and he has sufficiently been penalized for his alleged act of abscondence after obtaining bail on merit.

7. For the foregoing facts and reasons, we allow this Application by admitting the applicant on bail subject to furnishing by him two solvent sureties in the sum of Rs.500,000/= (Rupees Five lac only), each, and P.R. Bond in the like amount to the satisfaction of trial Court.

8. Needless to mention here that in case the applicant misuses the concession of bail in any manner whatsoever, the trial Court shall be at liberty to cancel his bail as per law.

JUDGE

JUDGE

Faheem/PA