

IN THE HIGH COURT OF SINDH KARACHI

Criminal Bail Application No.1342 of 2025

Applicants : 1. Muhammad Shaikh Alamgir
2. Munir,
3. Nabeel Bengali, through M/s. Muhammad
Jawed Bangash & Zulfiqar ul Haq,
Advocate.

Respondent : The State through Mr. Muhammad
Mohsin Mangi, A.P.G, Sindh

Complainant : Mst. Humera Bibi, through Mr. Rizwan
Ahmed Rajper, Advocate.

Date of hearing: 26.06.2025.

Date of order : 03.07.2025.

ORDER

Tasneem Sultana, J:- Through instant Criminal Bail Application, applicants/accused Muhammad Shaikh Alamgir, Munir and Nabeel Bengali, seek pre-arrest bail arising out of FIR No.276 of 2024, registered at police station Brigade, Karachi, under Section 506, 354, 34 PPC. Earlier, their Bail Before Arrest Application bearing No. 4122 of 2024 was recalled by the learned Additional Sessions Judge-V, Karachi (East), vide order dated 20.05.2025. They were admitted to interim bail by this Court, vide order dated 24.05.2025, now the matter is fixed for the confirmation of the same or otherwise.

2. The allegations against the applicants / accused are that on 21.05.2024, when complainant namely Humera was returning to her house after a meeting with Counsel and reached near Waseem Park at about 3:00 PM, the applicants came near her and asked to withdraw a Case / FIR No. 649 of 2022, registered at PS Brigade under Sections 302, 324/34 PPC. They allegedly misbehaved, outraged her modesty, striped off her clothes, and issued threats of dire consequences, hence this FIR.

3. Learned Counsel for the applicants contended that the applicants have falsely been implicated in this case by the complainant with malafide intention and ulterior motives; that the FIR was lodged with the delay of three months without explanatory clause which creates serious doubts in the prosecution case; that the case has been lodged by the complainant with the sole purpose of pressurizing and harassing the applicants, especially in view of the fact that a prior legal action had been initiated by the applicants and their associates; that no independent witnesses have supported the version of the complainant, nor medical report substantiated the claim of manhandling or tearing of clothes; that applicants are regularly appearing before Trial Court and no allegation has been made

regarding their non-cooperation, tampering with evidence or influencing the prosecution witnesses; that interim pre-arrest bail order dated 20.05.2025, may be confirmed.

4. Conversely, learned Assistant Prosecutor General Sindh, duly assisted by learned Counsel for the complainant contended that applicants are nominated in the FIR with their specific roles; that one of the applicant namely, Munir is accused in Sessions Case No. 725 of 2023, under Section 302, 324, 34 PPC, regarding the murder of complainant's son; that sufficient material available on record; hence, prayed for the dismissal of bail application.

5. Heard, record perused.

6. It appears from the record that even learned Additional Sessions Judge-V, Karachi (East) had confirmed pre-arrest bail of applicants on merit, however, surety amount was enhanced from Rs. 40,000/- to Rs.2,00,000/-. The record further reflects that thereafter applicants filed an application for reduction of surety amount and surety amount was reduced from Rs. 2,00,000/- to Rs. 60,000/-. It may be noted, when applicants had not furnished surety of differential amount of Rs. 2,00,000/-, therefore, learned Judge vide order dated 20.05.2025 recalled the order of confirmation of bail. It further reflects that prior to lodgment of present FIR, the applicants party lodged FIR No. 471 of 2024, under Section 337-A(1), 354 PPC, registered at Police Station Korangi Industrial Area, Karachi against the complainant party. The same Court confirmed the bail of complainant in above crime on surety amount of Rs. 10,000/- and this disparity in surety amount is against the norms of justice.

7. Our jurisprudence is consistent that while stipulating the amount of surety bond the court must always take into consideration the financial position of the accused. In ***Mian Abdul Wahid v. The State*** (1989 MLD 4731) this Court held that if it is beyond his capacity it would amount to refusal of bail. In case of ***Saeed Zaman v. The State & another (2020 SCMR 1855)***, the Hon'ble Supreme Court of Pakistan held:

“The survey of above provisions clearly demonstrates that in case the Court consider it expedient to release an accused on bail pending conclusion of his trial, it can certainly require him to execute a bond either personally or through sureties, setting conscionable amounts therein, having regard to the facts and circumstances of each case with a view to ensure future attendance and may proceed to forfeit such bond in the event of default/non-compliance as contemplated by section 514 of the Code. The Code does not envisage cash deposit except for an

undertaking for good behavior within the framework of section 513 thereof.”

The right to a reasonable bail is now considered to be closely related to the right of fair trial.

8. Moreover, the Section applied in FIR i.e. 354 and 506 PPC carries punishment up to two years, both offences 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 canceled. Reference can be made from the dicta laid down by the Hon'ble Supreme Court in case of Mian Mahmud Ali Qasauri and others v. The State (PLD 1963 SC 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 be preserved undiminished.”

9. I am also fortified with dicta laid down by the Hon'ble Supreme Court of Pakistan in case of Tariq Bashir and 5 others v. The State (PLD 1995 SC 34), which was again recognized and maintained by the Hon'ble Supreme Court of Pakistan in case of Muhammad Tanveer v. The State & another (PLD 2017 SC 733), the Apex Court observed as under :-

“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.”

10. In view of the above facts and circumstances as well as dictum laid down in the cases referred above, the case against the applicants requires further enquiry and malafide cannot be entirely ruled out. Consequently,

instant bail application is allowed, interim bail granted earlier to applicants, namely, Muhammad Shaukh Alamgir, Munir and Nabeel Baangali is confirmed on same terms and conditions.

11. Needless to mention that the observation(s) made hereinabove are tentative in nature and shall not prejudice the merits of the case.

Faheem/PA*

JUDGE

