

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Revision Application No.S-30 of 2025

Applicant: Muhammad Haneef s/o Muhammad Tufail
Through Mr. Rao Faisal Ali advocate.

Respondent: The State.
Through Mr. Ghulam Abbas Dalwani, DPG.

Date of hearing: 23.06.2025.

Date of Order: 23.06.2025.

ORDER

Jan Ali Junejo, J.— This Criminal Revision Application, under Section 439 read with Section 561-A, of the Code of Criminal Procedure, 1898 (Cr.P.C.), has been filed by the Applicant, challenging the Order dated 16.06.2025 (hereinafter referred to as the “*Impugned Order*”), passed by the learned Additional Sessions Judge-I/MCTC, Sanghar (hereinafter referred to as the “*Trial Court*”), in bail application No.723 of 2025 whereby application for reduction of surety amount filed on behalf of the Applicant was dismissed.

2. The applicant is nominated as an accused in FIR No. 93 of 2025, registered under Section 489-F of the Pakistan Penal Code (PPC) at Police Station Sanghar. The allegations arise from the issuance of two cheques bearing Nos. 21199543 dated 15.04.2025 and 21199544 dated 28.04.2025, collectively amounting to Rs. 35,40,000/-, drawn on Bank Al-Falah, Site Area Branch, Hyderabad. Both cheques were dishonoured upon presentation—due to insufficient funds and on account of a stop payment instruction issued by the drawer. The applicant was granted interim pre-arrest bail on 14.06.2025 in Criminal Bail Application No. 723 of 2025, subject to furnishing a surety bond in the sum of Rs. 500,000/-, which was subsequently confirmed. Thereafter, the applicant filed an application seeking reduction in the amount of surety, which was dismissed vide order dated 16.06.2025.

3. The Applicant’s counsel argued that the Applicant belongs to a poor family and is financially unable to furnish the substantial surety amount of Rs.

500,000/-. It was contended that the Applicant is a respectable citizen who has consistently appeared before the trial Court and the court that granted interim pre-arrest bail, indicating no likelihood of absconding. The counsel emphasized that imposing such a large surety would undermine the purpose of granting bail and cause unnecessary hardship to the Applicant. Furthermore, it was argued that failure to reduce the enhanced surety would result in irreparable loss and injury to the Applicant due to their poor financial condition, and therefore, the surety amount should be reduced in the interest of justice.

4. Learned Deputy Prosecutor General (DPG) has raised no objection to the reduction of the surety amount, acknowledging the applicant's financial constraints and the absence of any evidence suggesting that the applicant is likely to abscond or evade trial. The DPG's stance supports the view that the stringent surety imposed by the trial court is not justified under the circumstances.

5. I have carefully considered the submissions advanced by the learned counsel for the Applicant as well as the learned Deputy Prosecutor General (DPG) for the State. I have also perused the material available on record in light of the relevant settled principles of law. A perusal of the record reveals that the learned Trial Court, having found the case against the Applicant to be one of further inquiry, was satisfied that the Applicant was entitled to the concession of bail. Accordingly, bail was granted subject to the furnishing of surety in the sum of Rs. 5,00,000/- (Rupees Five Hundred Thousand). However, despite the Applicant's specific request for reduction of the surety amount on account of financial hardship, the learned Trial Court did not consider or address the said request in its order. The impugned order passed by the learned Trial Court is entirely silent on the crucial aspect of whether there exists any likelihood of the Applicant absconding or breaching the conditions of the bail. No findings or observations have been recorded in this regard to justify the imposition of stringent surety requirements. The question of the Applicant's guilt or

innocence is yet to be determined and shall be decided during the course of the trial, upon appreciation of evidence in accordance with law. The fundamental object of bail is to secure the release of an accused from jail custody and place him in the custody of a surety, who undertakes to ensure his appearance before the Court whenever required. This legal mechanism facilitates the accused's liberty during trial without compromising the administration of justice. Importantly, such a transfer of custody cannot be equated with a barter of the accused's fundamental right to liberty. It is a cardinal principle of criminal jurisprudence that an accused is presumed innocent until proven guilty. Therefore, all pre-trial conditions, including those relating to bail, must be aligned with this presumption. Any condition that effectively penalizes or incapacitates the accused prior to conviction offends the principle of fairness and due process. The grant of bail does not signify acquittal or dismissal of charges; rather, it merely alters the form of custody—from the State to a surety—primarily to ensure the accused's attendance at trial. Bail is not meant to serve as a punitive tool or impose undue pre-trial hardship. The fixation of surety must strike a balance between two competing yet co-existing concerns:

- Ensuring the presence of the accused during trial, and
- Safeguarding the accused's liberty, especially in the absence of proven guilt.

If the bail amount is fixed at an unreasonably high figure—beyond the financial means of the accused—it defeats the purpose of bail, effectively resulting in a constructive denial of liberty, despite bail being granted on merits. Such conditions also risk violating the right to equality before the law and the right to a fair trial, particularly when imposed upon individuals of limited financial means. Furthermore, the amount of surety must not vary irrationally or excessively between co-accused, unless supported by cogent and legally justifiable distinctions. In the present case, the Applicant has consistently appeared before the Court and has fully cooperated with the proceedings, thereby demonstrating no risk of absconding. These circumstances justify a

more lenient and realistic approach in the determination of surety. The Honourable Supreme Court of Pakistan, in the landmark judgment of *Maqbool Ahmed Mahessar and others v. National Accountability Bureau (NAB) through Chairman and others (2021 SCMR 1166)*, reiterated the principle in the following terms:

“An accused seeking bail desires transfer of his custody from Superintendent of the Jail, where he is confined, to his surety who undertakes his production as and when required by the Court and for that he has to make out a case in accordance with the law applicable thereto; he cannot be allowed or required to barter his freedom”.

In view of the foregoing analysis, the impugned order passed by the learned Trial Court, imposing stringent and disproportionate surety conditions, is found to be legally unsustainable and inconsistent with the principles of justice, equity, and fair trial.

6. For the reasons outlined here-in-above, the Criminal Revision Application is allowed. The surety amount fixed by the learned Trial Court is hereby reduced from Rs. 500,000/- (Rupees Five Hundred Thousand) to Rs. 200,000/- (Rupees Two Hundred Thousand). Additionally, the Applicant shall furnish a personal recognizance bond in the sum of Rs. 200,000/- (Rupees Two Hundred Thousand), to the satisfaction of the learned Trial Court.

JUDGE

“Saleem”

