

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR.

Crl. Bail Application No. S- 542/2024.  
Crl. Bail Application No. S- 543/2024.

Date of hearing	Order with signature of Judge
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- 1. For orders on office objection at Flag ‘A’.
- 2. For hearing of bail application.

**ORDER.**  
**03.10.2024.**

Mr. Kashif Mushtaque Bohio, Advocate for applicants/accused.

Mr. Abdul Baqi Jan Kakar, Advocate for complainant.

Syed Sardar Ali Shah Additional P.G.

**MEHMOOD A. KHAN J.,** Through this order, I intend to dispose of aforesaid pre-arrest bail applications filed on behalf of applicants/accused Faheem son of Allah Wassayo Bhurt and Abdul Qayoom alias Qayoom son of Allah Wassayo Bhuro filed separately in crime No.42/2024, offence under sections 302, 34, 149 PPC of Police Station Mithiani, District Naushehro Feroze. Prior to this, the applicants/accused named above filed their application for grant of pre-arrest bail but the same were turned down by learned Additional Sessions Judge-III Nausherho Feroze vide order dated 30.07.2024 through common order, hence they have filed their bail applications before this Court.

2. On the last date of hearing, Investigating Officer was called upon in respect to communication with Khuda Bux and his required statement in response to which SHO present and states that I.O is not available today and he has gone to Karachi. SHO further states that as no trace about the alleged

communication said to have been made with Khuda Bux was available, therefore, the statement of the said Khuda Bux was not found required.

3. The allegations against the applicants/accused are that on 20.06.2024 at 8.00 a.m due to filing of family suit they along with co-accused duly armed with deadly weapons in furtherance of their common object committed murder of Mst. Parvezan by means of fire arm injuries.

4. Learned counsel for the applicants contends that no active role of the present applicants is present to the allegations made; that the delay of 12 hours is present in lodging of the FIR as bearing from the record and that the version as made out itself becomes doubtful as the concealment of complainant and her mother said to be witnesses is present. He lastly argued that the applicants/accused are entitled for confirmation of pre-arrest bail.

5. Learned counsel for the complainant, however, contends that one innocent lady was brutally murdered by collusion and connivance of the present applicants which prima facie was pre-planned and their specific role of being armed with deadly weapons is present and as such aggression was made despite filing of the family suit by the deceased. Learned counsel further contends that section 34 PPC is available and their presence is also bearing from the record for a crime to which they are party.

6. Learned Addl.P.G, however, contends that main accused namely Shakeel is behind bars and crime weapon has been recovered which has been sent for FSL. He relied upon the case of Babar Nadeem v (2020 SCMR 1253).

7. Having heard learned counsel for applicants/accused learned Addl.P.G and gone through the record.

8. The requirement of understanding of this Court for entertainment or otherwise of the bail application being tentative, although the present applicants are specifically named in the FIR, no active role has been assigned to them; except for being present and presently it can only be a presumption that the presence was for protecting the main accused. As such their role liable to be determined under section 34 PPC better comprehended by the learned trial Court. However, as a case of further inquiry has been made out. As even having gone through the medical report which though specifies three injuries areas the same are apparently attributed to use of single weapon as reported in the matter. The applicant is found entitled to the concession of bail.

9. In view of above discussion, learned counsel for the applicants/accused has made out a good case for confirmation of bail in the light of sub section (2) of Section 497 CrPC, hence interim pre arrest bail already granted to the applicants/accused Faheem and Abdul Qaoom bycaste Bhurt is hereby confirmed on same terms and conditions.

10. Needless to mention that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicants on merits.

11. Both bail applications stand disposed of in the above terms.

**J U D G E**