



IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA

**Crl. Bail Appln. No. S- 633 and
516 of 2023.**

Date of hearing 21.03.2024.	Order with signature of Judge
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Mr. Safdar Ali Ghouri, Advocate for applicant Shahid in Crl. Bail Appln. No. S- 633 of 2023.

Mr. Muhammad Sharif Ghanghro, Advocate for applicant Oshaque in Crl. Bail Appln. No. S- 633 of 2023 and for applicant Shah Nawaz in Crl. Bail Application No. S- 516 of 2023.

Mr. Ahmed Wadho, Advocate for complainant.

Mr. Ali Anwar Kandhro, Additional Prosecutor General.

ORDER

Muhammad Saleem Jassar, J: Captioned two bail applications are outcome of one and same crime i.e. F.I.R No. 24 of 2023 registered at P.S Waris Dino Machhi (*District Larkana*), for offences punishable under Sections 457 and 380 P.P.C., as such these are disposed of by this common order.

2. Crl. Bail Appln. No. S- 633 of 2023 has been filed on behalf of applicants Oshaque and Shahid under Section 497 Cr.P.C. Whereas Crl. Bail Appln. No. S- 516 of 2023 has been filed on behalf of applicant Shah Nawaz under Section 498-A Cr.P.C. The bail plea of applicants was declined by learned Court below vide separate Orders dated 16.10.2023 and 05.09.2023, respectively.

3. Vide short order dated 21.3.2024, the captioned bail applications were allowed and following are the reasons for the short order.

4. The alleged incident is said to have taken place in dark hours of night and source of identifying the culprits being solar bulb-light, is very weak type of source, as such wrong recognition and mistaken identify cannot be ruled out. The investigation of the case is over and case has been challaned and it is being tried by the Magistrate, therefore, in such event, the sentence for more than three years cannot be visualized. Even otherwise it is settled law, that every accused would be presumed to be blue-eyed boy of the law until and unless he may be found guilty of the alleged charges and the law could not stretched upon in favor of the prosecution particularly at bail stage. Moreover, the alleged offences do not fall within prohibitory clause of Section 497 Cr.P.C., and as per settled law the grant of bail in such cases is rule and refusal is an exception.

5. Needless to mention here that, observations made in this order are tentative and shall not prejudice the case of either party in the trial. It is further made

clear that in case the applicants misuse concession of bail, then the trial Court would be competent to cancel the bail of the applicants without making any Reference to this Court.

Dated: 26.03.2024.

Judge

Amari