

ORDER SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Cr. Misc. Application No. S-286 of 2026

Applicant : Shahnawaz Khaskheli through Mr. Francis Lucas Khokhar, Advocate

Respondents : Senior Superintendent of Police (SSP), Umerkot and others through Mr. Neel Parkash, Deputy Prosecutor General Sindh and Mr. Abdul Ghaffar Narejo, Advocate for the Respondent No. 4

Date of Hearing : 07.09.2026

Date of Judgment : 10.09.2026

ORDER

Muhammad Humayon Khan, J.: By Order dated 31.08.2026 in Criminal Miscellaneous Application No. 983 of 2026, the learned Additional Sessions Judge-II/Ex-Officio Justice of Peace, Umerkot, has directed the Officer-in-charge, Police Station Samaro, to record the statement of the private Respondent, Haji Mehmood Ali Khan, under s. 154 of the Cr.P.C and, if it discloses a cognisable offence, to proceed as per law against the Applicant, who happens to be the current Station House Officer (SHO) of the same police station. (Haji Mehmood Ali Khan has not been named as Respondent No. 4 in the application and has been impleaded separately, but he is being referred to as such for ease of reference.) The Applicant has challenged the said Order in this application under s. 561A of the Cr.P.C.

2. The Respondent No. 4 filed the aforementioned application. According to him, on 20-08-2026 at about 11:30 am, he was present with guests and customers at his Otaq situated near his agricultural land when the Applicant, ASI Mir Khan Solangi, ASI Khadim Khaskheli, Police Constable Saddam Bhurgari and three unidentified police constables arrived in a police mobile. It was alleged that they searched the Otaq, the persons present and the vehicles parked there, used abusive language, maltreated them, and removed three sacks of onion seed stated to be worth approximately Rs.700,000/-. When return of the property was sought, the Respondent No. 4 was allegedly threatened with implication in narcotics and Gutka cases.

3. As against this, the Applicant has maintained that, on the same date, he found a suspicious car, chased it up to the Respondent No. 4's Otaq, verified the vehicle and checked the antecedents of its driver. During checking of other vehicles, Abdul Wahab, son of the Respondent No. 4, allegedly obstructed and

threatened the police party. Entry No. 14 was recorded in the roznamcha at 1630 hours and a memo concerning the search of the car was prepared in the presence of Jamal Qambrani and Muhammad Hashim Qambrani. The Applicant further asserted that relatives of the Respondent No. 4 had been involved in cases under the Gutka/Mainpuri law and that the accusation was a counterblast intended to deter lawful police action.

4. Upon his version, the Respondent No. 4 statedly approached the police authorities and then, having filed the aforementioned application, secured the Order dated 31.08.2026 wherein the learned Ex-Officio Justice of Peace has found that the complaint presented a good case for making an order under s. 22A (6) of the CrPC. The said Order has now been challenged in this application by the Applicant. The Application was admitted on 01.09.2026 and was heard to some extent on 02.09.2026 and then adjourned to 07.09.2026. On 07.09.2026, the Respondent No. 1 (SSP Umerkot) submitted a report dated 07.09.2026 in which the version of the Respondent No. 2 (DSP Umerkot) has been reiterated and it is stated that any order passed by this Court will be complied with. On 07.09.2026, Mr. Abdul Ghaffar Narejo for the Respondent No. 4 filed his statement together with supporting documents, including the aforementioned DIGP communication dated 24-04-2026. The reports and documents were taken on record, and the matter was heard and reserved.

5. Learned Mr. Francis Lucas Khokhar for the Applicant contended that the impugned order was passed without proper application of judicial mind; that the police action was a lawful verification of a suspicious vehicle; that the contemporaneous roznamcha entry and search memo supported the Applicant; that the Respondent No. 4 was not initially present at the Otaq; that no onion seed was removed and no threat or maltreatment occurred; and that the proceedings under ss.s 22-A and 22-B of the CrPC were a retaliatory device employed because cases had been registered against the Respondent No. 4's relatives. He maintained that no cognizable offence was disclosed and prayed that the impugned order be set aside.

6. Conversely, Mr. Abdul Ghaffar Narejo for the Respondent No. 4 supported the impugned order. He argued that the complaint supplied a specific time, place, occurrence and individual roles; that the defence set up by the Applicant raised disputed questions incapable of final determination in summary proceedings; and that an inquiry by officers within the same local chain of command could not displace the statutory requirement of recording information disclosing cognizable offences. He also relied upon the statement dated 07-09-2026 and communication No. Estt/4160-63/2026 dated 24-04-2026 of the DIGP, Mirpurkhas Range,

submitting that the Applicant's inclusion at serial No. 71 in the departmental list and the formal inquiry ordered against him made an independent investigation imperative.

7. Learned Deputy Prosecutor General, assisted by the Respondent No. 2 (DSP/SDOP Samaro) and SIP Bahadur Khan Khaskheli of Police Station Umerkot City, referred to the reports submitted by the police authorities and left the matter to the Court, while undertaking that any lawful direction would be implemented in letter and spirit.

8. The Order dated 31.08.2026 is not a conclusive finding of guilt against the Applicant. It is merely an order indicating that, *prima facie*, a cognisable case is made out and on which an order under s. 22A of the CrPC can be made, and on my own view of the available facts, as stated above, it seems to me that there is indeed a cognisable case on which further investigation could be done. Under s. 154 of the CrPC, the office in-charge is required to reduce to writing any information relating to the commission of a cognisable offence, which then forms the basis of an FIR. Consequently, there appears to be nothing wrong in the impugned Order which has considered the version of the Respondent No. 4 in its true perspective without pronouncing upon the guilt or innocence of any party. The grounds advanced by the Applicant are on the footing of a cross-version which can only be tested after investigation and it will be premature at this stage to comment upon the same or to negate the separate version of the Respondent No. 4 which does not become void because there is another story by the Applicant. Indeed, under the spirit of *Mst. Sughran Bibi v The State* PLD 2018 SC 595, there is ample room for considering cross-versions of parties and both the Applicant and the Respondent No. 4 shall be fully entitled to advance their respective versions at the stage of investigation.

9. I am not unmindful of the report brought on the record according to which the Applicant has been issued a show-cause notice and an investigation is ordered to be underway against him in relation to narcotic/gutka/*mava* related offences. However, at this stage I am unable to comment upon any premature matter and I shall be leaving it for the appropriate time and place.

10. For these reasons, I dismiss this application along with any listed applications with the same directions as the learned Ex-Officio Justice of Peace and with the following additional directions by way of clarification:

- i) The Respondent No. 1 shall ensure that the statement of the Respondent No. 4 is recorded under s. 154 of the CrPC without any

further delay. The statement shall be recorded by the officer-in-charge of the Police Station having territorial jurisdiction.

- ii) During the investigation of this matter, the Applicant shall not be given any field posting. This is to ensure that the investigation is carried out impartially and without interference or misuse of the Applicant's charge of any police station.
- iii) No one named in the complaint nor any police officer subordinate to or having in the recent past remained in subordination of the Applicant shall be a part of the investigation. Once the FIR is lodged, the investigation shall be carried out by a competent and impartial officer not below the rank of Deputy Superintendent of Police (DSP) from outside Samaro Sub-Division, and the Deputy Inspector General, Mirpurkhas Range, shall supervise the investigation.
- iv) All parties, including the Applicant, shall be entitled to advance their cross-versions in their statements to be recorded and the investigation of each version shall be properly carried out.
- v) No person nominated in the Complaint/statement under s. 154 of the CrPC/FIR shall be arrested simply upon nomination. The arrest shall be made upon collection of sufficient incriminating material and satisfaction of all legal requirements. No party from either side shall be harassed, humiliated or subjected to unnecessary coercion.
- vi) The Respondent No. 1 is directed to ensure protection of the Respondent No. 4.
- vii) Office is directed to communicate this Order to the worthy Inspector General of Police, Sindh, Deputy Inspector General of Police, Mirpurkhas Range and the Respondents Nos. 1 to 3 for information and compliance.

JUDGE

****Faisal****