

Order Sheet
IN THE HIGH COURT OF SINDH,
BENCH AT SUKKUR

Crl. Bail Application No.S-730 of 2024
Crl. Bail Application No.S-746 of 2024
Crl. Bail Application No.S-753 of 2024

Date of hearing	Order with signature of Judge.
-----------------	--------------------------------

M/s Shah Nawaz Waseer, Mansoor Hussain Maitlo & Azam Khan Memon, Advocates for the applicants along with applicant Mst. Gulzaran Malik.

Syed Sardar Ali Shah, Additional P.G for the State.

Date of Hearing & Order: **12-12-2024**

ORDER

ZULFIQAR AHMAD KHAN, J.- An FIR No. 205 of 2024 was registered by complainant ASI Allah Dino Wagan at P.S, Darya Khan Mari for offences under sections 371-A & 371-B PPC, wherein he alleged that on 01.10.2024 while he was on patrol duty along with his subordinate staff received secret information that accused Gulzaran used women for the purpose of prostitution and illicit intercourse and unlawful and immoral purpose in her house. On such information, police party reached the house of Gulzaran and found one man and two women sitting on cots in intimate condition. Police party apprehended one man and one woman, while one woman on seeing police succeeded to decamp from the spot. Due to non-availability of private persons, LPC Ambreena Malik and PC Rashid Ayoub acted as Mashirs. On enquiry, lady accused disclosed her name as Mst. Zainab and man disclosed his name as Shabir. Consequently, after completing legal formalities at the spot, both the apprehended accused were brought at P.S, where above FIR was lodged.

2. Arguments of learned counsel in defense are that the applicants are innocent and have nothing to do with the alleged offence; that no search warrants were taken for conducting the raid at the house of applicant Gulzaran/place of alleged incident, which is protected by law;

that the alleged place of incident is situated in the populated area, however, no private person was associated to act witness of the alleged incident, which is in utter violation of section 103 CrPC. Hence, case of the applicants requires further enquiry and they be granted bail.

3. Learned Additional P.G did not oppose the grant of bail to the applicants.

4. I have considered submissions of parties and perused material available on record. Admittedly, the police party conducted the raid at the house of applicant Gulzaran on the basis of spy information and sufficient time was available to police to arrange private persons as mashirs to witness the alleged incident, but no efforts have been made, as such there is gross violation of section 103 CrPC. Moreover, no warrants were taken by the police for conducting the raid in the house of the applicant Gulzaran, which is protected by the law.

5. Furthermore, no material is available on record to show that the applicants are involved in buying and selling person for the purpose of prostitution, therefore, in the circumstances of the case, applicability of sections 371-A & 371-B PPC, which only apply to persons who sell or purchase any person with intent that such person would be used for the purpose of prostitution or illicit intercourse, is yet to be determined by the trial Court after recording evidence,. Perusal of FIR also reveals that on personal search of lady accused, police did not recover any money from her possession.

6. It is settled law of the criminal justice that every accused should be presumed as innocent until and unless he/she is found guilty of the alleged offence. It is also settled law that if any doubt is created in prosecution case, its benefit must be extended to the accused, even at bail stage.

7. No doubt, at bail stage, no deeper appreciation of the fact is permissible, but at the face of it, in my humble view, the case requires further inquiry into the guilt of the applicants. Consequently, these bail applications are **allowed** and the interim pre-arrest bail earlier

granted to applicant Mst. Gulzaran (Crl.B.A.No.S-730 of 2024) is confirmed on the same terms and conditions, while applicants Mst. Zainab Jameel (Crl.B.A.No.S-746 of 2024) and Ghulam Shabir Sahito (Crl.B.A.No.S-753 of 2024) are admitted to post-arrest bail subject to their furnishing solvent surety in the sum of **Rs.10,000/- (Ten Thousand)** each with P.R bond in the like amount to the satisfaction of the trial Court. The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

8. Since it has been revealed that police party conducted raid at the house of applicant Gulzaran without obtaining search warrants, let FIR be registered against the police officials who entered into the house of applicant Gulzaran without search warrants in violation of Police Rules. Let prosecution office, Naushahro Feroze be the complainant and file FIR and furnish a copy of the said FIR to the Additional Registrar of this Court.

Office to place a signed copy of this order in captioned in connected matter.

JUDGE