

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.231 of 2025

Applicants : i. Mazhar Hussain S/o Muhammad
Essa Wasan
ii. Shakeel Ahmed S/o Ghulam Yaseen
through Mr. Noman Ali Bhutta, Advocates

Respondent : The State
through Mr. Gul Faraz Khattak, Assistant
Attorney General a/w I.O. Dr. Sheikh
Suhail Mehmood, FIA AHTC, Karachi

Date of hearing : 27.02.2025

Date of order : 27.02.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicants/accused seek pre-arrest bail in Crime No.268/2024 for the offence under Sections 420, 468, 471, 109, 34 PPC registered at PS FIA AHT Circle, Karachi, after their bail plea has been declined by the learned XIVth Additional Sessions Judge, Karachi East vide order dated 09.01.2025.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Per learned counsel for the applicants, the applicants are innocent and have falsely been implicated in this case; that the FIA official in collusion with the complainant booked the present applicants in this case; that accused Mazhar Hussain is Junior Clerk in Union Council Ranipur, Khairpur and the accused Shakeel Ahmed is a Nikahkhuwan at Khairpur; that being Junior Clerk, accused Mazhar Hussain only performed routine clerical duties having no power of issuing or approving documents; that accused Shakeel Ahmed has not solemnized the Nikah of co-accused Shabana Abbas; that both the accused have no association with the main accused Mst. Shabana Abbas; that the applicants have joined the investigation and they are no more

required for further investigation. He lastly prays for confirmation of bail to the applicants.

4. On the other hand, learned Assistant Attorney General duly assisted by I.O. has vehemently opposed for bail. I.O. present in Court submits lady accused Shabana Abbas managed her Nikahnama with Shaikh Muhammad Aziz after his death in the year 2022 with the help of present accused Shakeel Ahmed, who is said to be a Nikahkhuwan in the District Khairpur and subsequently, same was registered in the concerned Union Council with the help of accused Mazhar Hussain, who is stated to be a Junior Clerk in the said Union Council; therefore, both the accused persons are guilty of the said offence and they are not entitled for concession of bail.

5. Heard arguments and perused the record.

6. From perusal of record, it reflects that complainant Ms. Muntazim Ara Shaikh reported to the FIA that she was married to one Shaikh Muhammad Siddique, who died in the year 1979; however, she has two step-sons namely Shaikh Muhammad Aziz and Shaikh Muhammad Saeed and she was residing with step-son Shaikh Muhammad Aziz, who was unmarried; however after his death in 2022, one housemaid namely Shabana Abbas claimed that she is the wife of late Shaikh Muhammad Aziz and her Nikah was solemnized with him in the year 2011. The complainant further claimed that in the year 2015, Muhammad Abbas is written as husband of housemaid Shabana Abbas in her CNIC; however, after the death of Shaikh Muhammad Aziz, she renewed her CNIC and by way of submission of fake documents, her husband name has been changed as Shaikh Muhammad Aziz. She claimed that if said housemaid had solemnized Nikah with her step-son namely Shaikh Muhammad Aziz in the year 2011 then why in her CNIC issued in 2015, husband name is written as Muhammad Abbas. On such complaint, the instant FIR was lodged and during the course of investigation, it has been surfaced that lady accused Shabana Abbas holding CNIC # 42201-1544013-4 had processed her CNIC in modification vide TID # 770005590145 through online application on the basis of fake divorce certificate and marriage certificate. The Divorce and Marriage Certificates have been confirmed that accused lady obtained the same

fraudulently whereas the attester Waris Raza denied with the stamp and signature appearing on the said online CNIC form and he also did not know the accused lady. Further, during course of investigation, it has been confirmed that on 21.05.2022, after the death of Shaikh Muhammad Aziz, lady accused Shabana Abbas with the help of facilitators namely Rana Sameer, Rehmatullah Siddiqui, Muhammad Ibrahim and with the active connivance of present applicants Mazhar Hussain, Jr. Clerk posted at Union Committee Rajanpur, Khairpur and Shakeel Ahmed, Nikahkhuwan, TMC Rajanpur, Khairpur fraudulently by concealment of facts / wrong declaration by submitting fake and forged documents obtained the Divorce Certificate, Registration Certificate, Death Registration Certificate and Marriage Registration Certificate and on the basis of which, she succeeded to obtain CNIC in the name of Shabana Abbas wife of Shaikh Muhammad Aziz through online NADRA system as modification by showing her previous CNIC as lost in order to get monitory benefits to usurp the property of deceased Shaikh Muhammad Aziz. I.O. also submitted that during investigation, all the accused persons were examined; however, they failed to justify their acts and also not provided any single piece of evidence which support their version. Sufficient material is available on record which connects both the applicants in the commission of alleged offence. At bail stage, only tentative assessment is to be made and deeper appreciation of the evidence is not permissible. No ill-will or malafide or enmity has been pointed out by the learned counsel for the applicants for false implication in this case.

7. Further, the concession of pre-arrest bail cannot be allowed to an accused person unless the Court feels satisfied with the seriousness of the accused person's assertion regarding his intended arrest being actuated by *mala fide* on the part of the complainant party or the local police but not a word about this crucial aspect of the matter is found as no *mala fide* is made on the part of the complainant to believe that the applicant/accused has been implicated in this case falsely. In this context, the reliance is placed to the case of **'Rana Abdul Khaliq v. The STATE and others' [2019 SCMR 1129]**. In addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of

the usual course of law, arrest in cognizable cases; protection to the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*, it is not a substitute for post-arrest bail in every run of the mill criminal case as it seriously hampers the course of the investigation.

8. In view of the above, the instant bail application is **dismissed**. Resultantly, the interim pre-arrest bail granted to the applicant/accused vide order dated 28.01.2025 is hereby recalled.

9. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant/accused on merits.

JUDGE

Kamran/PA