

Order Sheet

IN THE HIGH COURT OF SINDH KARACHI

Cr. B. A. No. 2208 of 2025

Date	Order with Signature of Judge
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For hearing of bail application

1. For order on MA No. 12027/25 (urgent)
2. For order on office objection a/w reply at Flag-A
3. For order on MA No. 12028/25 (exemption)
4. For hearing of bail application

28.08.2025

Mr. Behram Khan Ujjan, Advocate a/w Applicants

1. Urgency is granted.
2. Office objections to be taken up on the next hearing date.
3. Exemption is granted subject to all exceptions.
4. Applicant/Accused No.1, Basit Habib s/o Habib ur Rahman; Applicant/Accused No.2, Habib ur Rahman s/o Haider Zaman; and, Applicant/Accused No.3, Niaz Muhammad Khan s/o Ismail Khan are present along with their Counsel to seek pre-arrest bail in Crime No.285/2025 of PS Soldier Bazar, Karachi East under Sections 302, 34 PPC. The learned Counsel of the three (3) applicants/accused, inter alia, contended that the FIR concerns the alleged murder of an Advocate, the Late Mr. Nasir Malik, Advocate, and after registration of the FIR, the applicants/accused obtained protective bail from this (High) Court on 12.08.2025 and were going to surrender before the relevant trial Court, but have been facing great difficulty in doing so. First, the previous Counsel for the three applicants/accused had to excuse himself from representation. Second, he submits that no lawyer was willing to accept their brief. Third, when Counsel attempted to assist applicants/accused in surrendering before the trial Court, several lawyers threatened him/them. Therefore, the three applicants/accused have filed this bail application in the first instance before the High Court rather than the trial Court.

Counsel submits that he relies upon the Judgment of the Hon'ble Supreme Court reported in PLD 2009 SC 427 and 2004 SCMR 1167 and two other orders passed by this (High) Court, namely, (i) a pre-arrest interim bail-granting order dated 16.05.2025 in Cr. Bail Appln No.1263/2025 (Mirza Faisal Baig v. The State); and, another pre-arrest interim bail-granting order dated 11.06.2024 in Cr. Bail Appln No.1308/2024 (Khan Muhammad and Another v. The State). Counsel contends that this (High) Court, in both cases, i.e. (i) in the Mirza Faisal Baig case, and (ii) in the Khan Mohammad and Another case, because of the peculiar circumstances the High Court while exercising concurrent jurisdiction, is empowered to grant bail in exceptional circumstances, and eventually the applicant/accused also managed to obtain bail confirmation orders in both the cases from this (High Court). He contends that the applicants/accused attempted to surrender from the trial Court; however, they are apparently being prevented by advocates from joining the trial/investigation, and that there is a risk that the Counsel and applicants/accused apprehend that they may be harmed by the complainant party and/or colleagues of the deceased Advocate.

Without touching the merits of the case, given the peculiar circumstances of the case, the three applicants/accused are admitted to interim pre-arrest bail subject to each furnishing a solvent surety in the sum of Rs.50,000/- and a PR bond in the like amount to the satisfaction of the Nazir of this Court. However, this Court will examine the jurisdictional issues on the next hearing date.

Issue notice to the complainant as well as the learned Prosecutor General, Sindh.

To come up on 19.09.2025 for confirmation or otherwise. The three applicants/accused are directed to attend the trial Court and/or join the investigation, as the case may be.

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