

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**Criminal Bail Application No.1866 of 2020**

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*Date* *Order with signature of Judge*

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*For hearing of Bail Application.*

**31.08.2021**

Mr. Shakir Ali Rajper, Advocate along with Applicants (on bail).  
Ms. Rahat Ehsan, Addl. Prosecutor General, Sindh.

**ORDER**

**Muhammad Saleem Jessar, J:-** Through this application, applicants Taha Asad Siddiqui and Munib Asad Siddiqui seek their admission on pre-arrest bail in Crime No.272/2020 of Police Station Shahrah-e-Noor Jehan, Karachi, under Section 392/34 PPC. The bail plea preferred by the applicants before first forum was declined by means of order dated 30.11.2020, hence this bail application.

Since the facts of the prosecution case are already mentioned in the FIR, which is annexed with Court file, therefore, there is no need to reproduce the same.

Pursuant to directions contained under earlier order, the trial Court has furnished its progress report dated 27.08.2021, in respect of the trial of Criminal Case No.3031/2020, which reveals that all PWs have been examined and after closing side of the prosecution case against accused is now fixed on 04.09.2021 for recording of their statement under Section 342 Cr.P.C.

Learned counsel for the applicants submits that the case before trial Court has been concluded and it is now fixed for recording statement of the accused in terms of Section 342 Cr.P.C. He further submits that applicants have neither misused the concession extended to them nor have tampered with the prosecution evidence; besides, have joined trial proceedings without any negligence, hence, prays for confirmation of bail.

Learned Addl. P.G, Sindh appearing for the State, has recorded her no objection.

**Heard arguments and perused record.** Admittedly, the offence with which applicants have been charged, has been tried by the Judicial Magistrate where all the PWs have been examined and side of the prosecution has also been closed, as mentioned under the report furnished by learned trial Court. Reliance can be placed upon the cases of *DOST MUHAMMAD Versus THE STATE (1987 P.Cr.L.J 1335)* and *MUHAMMAD SIDDIQ Versus THE STATE (1987 P.Cr.L.J 1340)*. Moreover, if from the assessment of evidence, trial Court may determine that accused have been found guilty of said alleged charges, even then punishment of more than three years cannot be visualized. Therefore, concession of bail cannot be withhold merely because of the fact that trial is at verge of conclusion. In case, any adverse order is passed, it would prejudice the case of accused. In the circumstances, bail cannot be declined as punishment. Since the punishment provided by the law does not exceed limits of prohibitory clause of section 497 Cr.P.C, therefore, following dicta laid down by Hon'ble Supreme Court of Pakistan in case of *MUHAMMAD TANVEER Versus The STATE and another (PLD 2017 SC 733)* followed/recognized in an unreported case of *IFTIKHAR AHMED Versus The STATE*, passed by Hon'ble Supreme Court of Pakistan under Criminal Petition No.529 of 2021 in terms of order dated 14.07.2021, case against applicants requires further inquiry within meaning of sub-section 2 to section 497 Cr.P.C. Consequently, instant bail application is hereby allowed; interim bail granted earlier to applicants **Taha Asad Siddiqui and Munib Asad Siddiqui, both sons of Asad Masood Siddiqui** on 02.12.2020 is hereby confirmed on same terms and conditions.

Before parting with this order; however, it is clarified that the reasoning given in this order are tentative in nature and will have no effect whatsoever in any manner upon the merits of the case.

Applicants present before the Court are directed to continue their appearance before the trial Court without negligence and in case they may misuse the concession or may temper with the prosecution's evidence then the trial Court is competent to take legal action against them as well to their surety in terms of Section 514 Cr.PC.

Let copy of this Order be communicated to trial Court through learned Sessions Judge, concerned. Learned MIT-II to ensure compliance.

**JUDGE**