

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

Criminal Bail Application No.S-830 of 2021

Applicant : Noor Ahmed Son of Muhammad Khan, through Mr. Ayaz Ali Gopang, Advocate.

Respondent : The State through Ms. Rameshan Assistant Prosecutor General, Sindh.

Complainant : Complainant Mour Son of Hadi Bux Dahri through Mr. Ahmed Ali Jarwar, Advocate.

Date of hearing : 22.11.2021

Date of Order : 22.11.2021

O R D E R

AMJAD ALI SAHITO, J:- Through the instant bail application, the applicant/accused above named seeks his pre-arrest bail in Crime No.40 of 2019, under section 489-F P.P.C, registered at P.S Taluka Nawabshah, after his bail plea was declined by the learned 3rd Additional Sessions Judge, Shaheed Benazirabad, vide order dated 14.09.2021.

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

3. Per learned counsel for the applicant the entire case has been proceed with and now the same is fixed for recording of statement of accused under section 342 Cr.P.C, such fat has not been denied by the learned counsel for the complainant.

4. Learned Assistant Prosecutor General, Sindh also submits that before Trial Court case has been proceeded proceed with now the same is at the stage of recording statement of accused under section 342 Cr.P.C.

5. I have heard learned counsel for the applicant, the learned counsel for the complainant as well as Assistant Prosecutor General, Sindh and gone through the record available.

6. During pendency of this bail application the case has been proceeded with before the learned Trial Court where all the material witnesses have been examined then the prosecution has closed its side now the case is fixed for recording statement of accused under section 342 Cr.P.C. It is principle of law that once the evidence of material witnesses have been examined before trial Court, as such, at this juncture to pass any observation may prejudice the case of either party at trial. In this regard, I am fortified

with the case law reported as *NADIR alias NADIR ALI Vs. The STATE [2018 P. Cr L J NOTE 225]*, wherein this Court observed in the following manner:-

“The evidence of almost all the prosecution witnesses has been recorded by the trial Court and the investigating officer of the case remains to be examined. It is also not controverted that after grant of interim pre-arrest bail the applicant has ever misused the concession of bail.”

7. The case of the applicant covers the above fact so also it is settled principle of law that in that situation only direction be given to the learned Trial Court to conclude the case within specified period. At bail stage only tentative assessment is to be made.

8. In view of above, the bail application is allowed. Consequently, the interim pre-arrest bail granted to the applicant/accused by this Court vide Order dated 20.09.2021, is hereby confirmed on the same terms and conditions however the learned Trial Court is directed to proceed with the matter on day to day basis by not granting adjournment on flimsy grounds. The applicant/accused is too directed to attend the learned Trial Court regularly if he fails to appear the Trial Court would be at liberty to take actions against him in accordance with law.

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 on merits.

JUDGE

*Muhammad Danish**