

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail Application No.S-281 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection.
2. For hearing of main case.

10.08.2020

Mr. Hameedullah Dahri, Advocate for applicant.
Applicant is present on interim pre-arrest bail.
Mr. Aslam Pervaiz Khan, Assistant Attorney General.
Mr. Muhammad Asif, Special Prosecutor SSGC.

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NAIMATULLAH PHULPOTO, J.-

Applicant / accused Noor

Hussain son of Ahmed Din Unar seeks pre-arrest bail in Crime No.60 of 2020, registered at Police Station Sakarand, District Shaheed Benazirabad, for offences under Sections 15, 17 and 24 of Gas Theft Act, 2016.

2. Brief facts of the prosecution case as alleged by the prosecution are that on 12.03.2020, Niaz Hussain, Engineer SSGC, Nawabshah alongwith Muhammad Hussain Moro, Zonal Manager, SSGC Sakrand left his office to check the Sui Gas connections. At 1300 hours, complainant alongwith his staff reached at the poultry farm of applicant Noor Hussain, where unauthorizedly generator on natural gas was functioning which was being used by the applicant for his cold storage and poultry farm. Complainant inquired about the owner of generator from the staff available at poultry farm and cold storage; they informed that the same belong to the applicant / accused. Thereafter, F.I.R was registered against the applicant / accused at P.S Sakrand on the same date vide Crime No.60 of 2020 under Sections 15, 17 and 24 of Gas Theft Act, 2016.

3. Learned Advocate for the applicant / accused has mainly contended that the applicant is innocent and he is victim of the enmity. It is further contended that the applicant is consumer of the Sui Southern Gas Company and nothing incriminating was recovered from the spot. It is submitted that police intends to arrest the applicant for malafide reasons. Lastly, it is submitted that challan has been submitted against the accused in this case. In support of his contentions, learned Counsel for the applicant has

relied upon the cases reported as KH. BASHIR AHMAD v. THE STATE (1981 P.Cr.LJ 1170), MUHAMMAD AKRAM v. THE STATE (2020 P.Cr.LJ 31) and MUHAMMAD ARSALAN AHMED v. THE STATE (2017 P.Cr.LJ 434).

4. Mr. Muhammad Asif, learned Special Prosecutor SSGC has opposed this pre-arrest bail application on the ground that the applicant had committed theft of gas by tampering with the main pipe of SSGC and he was running generator un-authorizedly, for his business of cold storage and poultry farm. Learned Special Prosecutor argued that applicant did not join the investigation. It is further submitted that the ingredients for grant of pre-arrest bail are not satisfied and prayed for dismissal of this application. In support of his contentions, learned Special Prosecutor has placed reliance upon the cases of MUHAMMAD DILDAR v. THE STATE (2018 MLD 169), ALAMGIR KHAN v. THE STATE & another (2019 SCMR 1457) and MIRZA ALI ADIL BAIG v. THE STATE (2020 P.Cr.LJ 780).

5. Heard learned Counsel for the parties and perused the relevant record.

6. It would be relevant to mention here that the Gas (Theft Control and Recovery) Act, 2016 has been enacted for the prosecution of cases of gas theft and other offences relating to gas and to provide a procedure for recovery of amounts due. Section 2(r) of the Act defines “tampering” or “tamper” as under:--

“tampering” or “tamper” includes interfering or creating hindrance in flow or metering of gas power by unauthorized entry or access into metering system or transmission and distribution lines either by breaking the seals or damaging or destructing the same or in any manner interfering with the gas meter or transmission line or distribution line or interfering with its original condition.”

7. In the present case, the applicant / accused has tampered with the gas pipeline and through a generator unauthorizedly committed theft of gas for running his business of cold storage and poultry farm, which constitutes an offence under Section 14 of the Gas (Theft Control and Recovery Act), 2016. The punishment for the said offence may extend to 14 years with fine, which

may extend to Rupees 10 Million. The principles for grant of pre-arrest bail are well settled in the case of RANA ABDUL KHALIQ v. The STATE (2019 SCMR 1129) wherein it was observed by the honourable Supreme Court that;

“Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner 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 in every run of the mill criminal case as it seriously hampers the course of investigation.”

8. In the case of ALAMGIR KHAN v. The STATE (2019 SCMR 1457), the honourable Supreme Court has observed that;

“Alamgir Khan, petitioner herein, declined downstairs throughout, seeks admission to bail; he was surprised by a raiding party, within the precincts of Police Station Lakki Marwat, surreptitiously siphoning natural gas in a residential premises to unauthorizedly generate electricity being distributed to a large number of consumers in the neighborhood; he is also accused of criminally intimidating the contingent, brandishing a pistol on them, however took to the heels on arrival of police. Appliances being used, comprising electric generators, stabilizers with electric panels as well as other paraphernalia to power the system were secured vide inventory.

2. *Position taken by the learned counsel for the petitioner requires an in-depth analysis, essentially on the basis of evidence, yet to be recorded and thus falls far outside the barriers of tentative assessment. Statements of the witnesses, functionaries of the State with no animus or malice, duly corroborated by apparatus secured from the spot, constitute 'reasonable grounds', within the*

contemplation of section 497 of the Code of Criminal Procedure, 1898 to prima facie frame the petitioner with the charge that attracts the bar contained therein as section 462-C of the Pakistan Penal Code, 1860 carries a punishment that may extend to ten years' rigorous imprisonment. View taken by the Courts below being well within the remit of law is not open to any exception."

9. For the above stated reasons, no case for grant of pre-arrest bail is made out. Application for pre-arrest bail is rejected. Order dated 30.03.2020, whereby the applicant / accused was admitted to interim pre-arrest bail, is hereby recalled.

10. Needless to mention that the observation made hereinabove are tentative in nature. Trial Court shall not be influenced while deciding the case on merits.

JUDGE

Shahid

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Bail Application No.S-703 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection.
2. For hearing of main case.

10.08.2020

Mr. Faisal Nadeem Abro, Advocate for applicants.
Ms. Sana Memon, Assistant P.G.

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Applicants / accused are present on interim pre-arrest bail. Mr. Noor Ahmed Soomro, Advocate files power on behalf of the complainant and points out that bail application in the connected case i.e. Criminal Bail Application No.S-743 of 2020 is already fixed on 17.08.2020.

Adjourned to 17.08.2020. Applicants are directed to attend for confirmation or otherwise. Investigating Officer shall also be in attendance.

JUDGE

Shahid

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Bail Application No.S-680 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection.
2. For hearing of main case.

10.08.2020

Mr. Imran Ali Lund, Advocate for applicants.
Ms. Sana Memon, Assistant P.G.

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Applicants / accused are present on interim pre-arrest bail. Notice issued to the complainant is returned served but complainant is called absent. Learned Advocate for the applicants through his statement has filed four documents, which are taken on record, let the copy be supplied to learned A.P.G. Learned A.P.G seeks time to go through the documents. Time is allowed.

To come up on 02.09.2020 for confirmation or otherwise.
Applicants are directed to attend.

JUDGE

Shahid

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Bail Application No.S-679 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection.
2. For hearing of main case.

10.08.2020

Ms. Sana Memon, Assistant P.G.

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Applicants / accused are present on interim pre-arrest bail. Mr. Ali Raza Pirzada, Advocate holds brief on behalf of Syed Ali Hyder Shah, Advocate for the applicants, and states that Syed Ali Hyder Shah is busy before another bench. Mr. Khadim Hussain Soomro, Advocate present in Court undertakes to file power on behalf of the complainant.

To come up on 01.09.2020 for confirmation or otherwise. Applicants are directed to attend.

JUDGE

Shahid

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Bail Application No.S-667 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection.
2. For hearing of main case.

10.08.2020

Mr. Muhammad Arif Rajput, Advocate for applicants.
Ms. Sana Memon, Assistant P.G.

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Applicants / accused are present on interim pre-arrest bail. Mr. Hameedullah Dahri, Advocate files power on behalf of the complainant and claims copy of the bail application and its annexures. Learned Counsel for the applicants is directed to supply the same to learned Counsel for the complainant during course of the day. Learned Counsel for the complainant seeks time for preparation of the case. Time is allowed.

Adjourned to 01.09.2020. Applicants are directed to attend for confirmation or otherwise.

JUDGE

Shahid

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Bail Application No.S-660 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection.
2. For hearing of main case.

10.08.2020

Syed Muhammad Waseem Shah, Advocate for applicant.

Ms. Sana Memon, Assistant P.G a/w ASI Nazeer Ahmed of P.S
Pinyari, Hyderabad.

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Applicant / accused is present on interim pre-arrest bail. Ms.
Sana Memon, learned A.P.G submits that just now she has received paper
book, therefore, she seeks time to go through the same. Time is allowed.

To come up on 01.09.2020 for confirmation or otherwise.
Applicant is directed to attend.

JUDGE

Shahid

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Bail Application No.S-557 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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For hearing of main case.

10.08.2020

Mr. Noor Ahmed Memon, Advocate for complainant.
Ms. Sana Memon, Assistant P.G.

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Applicant is present on interim pre-arrest bail. Mr. Hameedullah Dahri, Advocate holds brief for Mr. Mir Naeem Talpur, Advocate for the applicant, and states that Mr. Mir Naeem Talpur is busy before another bench. Adjourned.

To come up on 27.08.2020 for confirmation or otherwise. Applicant is directed to attend. I.O of the case shall also be in attendance.

JUDGE

Shahid

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
 Cr. Bail Application No.S-547 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection.
2. For hearing of main case.

10.08.2020

Mr. Ashar Majeed Khokhar, Advocate for applicant.
 Ms. Sana Memon, Assistant P.G.

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Applicant / accused is present on interim pre-arrest bail. Notice was issued to the complainant but it is not returned either served or un-served. On previous date viz. 20.07.2020, show-cause notice was issued to the SHO and also notice was issued against the complainant through the SHO. Neither complainant is in attendance nor the concerned SHO. Repeat show-cause notice to the SHO through SSP concerned.

To come up on 31.08.2020 for confirmation or otherwise. Applicant is directed to attend. Let copy of this order be sent to the SSP by fax for compliance.

JUDGE

Shahid

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Bail Application No.S-524 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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For hearing of main case.

10.08.2020

Mr. Muhammad Ishaque Khoso, Advocate for applicant.
Mr. Abdul Wahab Bhurgri, Advocate for complainant.
Ms. Sana Memon, Assistant P.G.

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Applicant / accused is present on interim pre-arrest bail. Learned Advocate for the applicant seeks time to place on record the final medical certificate. Time is allowed. Learned Advocate for the applicant is directed to supply copy of the final medical certificate to learned A.P.G in advance.

To come up on 31.08.2020 for confirmation or otherwise. Applicant is directed to attend.

JUDGE

Shahid

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Bail Application No.S-430 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection.
2. For hearing of main case.

10.08.2020

Ms. Sana Memon, Assistant P.G.

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Applicant is present on interim pre-arrest bail. Mr. Pervez Tarique Tagar, Advocate holds brief on behalf of Mr. Ayaz Hussain Tunio, Advocate for the applicant, and states that Mr. Ayaz Hussain Tunio is busy before another bench.

Adjourned to 27.08.2020. Applicant is directed to attend for confirmation or otherwise. I.O of the case shall also be in attendance.

JUDGE

Shahid