

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Application No. S – 428 of 2020

Date	Order with signature of Hon'ble Judge
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Disposed of matter

For direction

01.02.2021

Mr. Sikander Sadar Siddiqui Advocate for the Surety
Mr. Aftab Ahmed Shar, Additional PG for the State

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Aftab Ahmed Gorar, J; Vide order dated 07.08.2020, accused Mumtaz Hussain and Eman Ali were admitted to interim pre-arrest bail by this Court subject to their furnishing solvent surety in the sum of Rs.50000.00 (Fifty thousand) each with PR bond in the like amount, whereas, on the same date, Muhammad Paryal S/o Muhammad Iqbal Dahar offered himself as surety by furnishing the required surety in the shape of Solvency Certificate No.242 dated 06.08.2020 issued by the Mukhtiarkar (Revenue), Thari Mirwah, which was accepted. Thereafter the accused persons were regularly attending this Court, but on 16.11.2020 they choose to remain absent, consequently, the interim pre-arrest bail granted to the accused was recalled and their bail application was dismissed for non-prosecution and notice u/s 514 Cr.P.C was issued against the surety.

Pursuant to notice under Section 514 Cr.P.C, on 07.12.2020 surety Muhammad Paryal put his appearance and sought time for production of the accused upto 21.12.2020. Today when the matter is taken up the surety is present, whereas, Mr. Sikander Sadar Siddiqui Advocate filed

vakalatnama on his behalf so also the case diary and order both dated 19.12.2020 on the compromise application regarding the acquittal of both the accused persons under Section 345(6) Cr.P.C of the trial Court / 1st. Civil Judge and Judicial Magistrate, Mirwah.

2. It is contended by learned counsel for the surety that the accused persons for whom he had stood surety have surrendered themselves before the trial Court / 1st. Civil Judge and Judicial Magistrate, Mirwah and have been acquitted of the charge by way of compromise vide order dated 19.12.2020, therefore, the very liability of the surety is over and he may be excused.

3. Conversely, learned Additional Prosecutor General for the State contends that the accused persons have misused the extra-ordinary concession of pre-arrest bail, despite grant of sufficient time the surety has failed to produce the accused persons before this Court, therefore, he is not deserving any leniency.

4. I have heard the learned counsel for the applicant and learned DPG for the State and perused the record. No doubt, the accused after the grant of interim pre-arrest bail were regularly attending this Court and subsequently on 16.11.2020 they choose to remain absent, whereas, after service of notice u/s 514 Cr.P.C the surety put his appearance and sought time for production of the accused persons, but could not produce them upto 21.12.2020. Today when the matter was taken up learned counsel for the surety placed on record case diary and order both dated 19.12.2020,

the perusal whereof shows that the accused persons have surrendered before the trial Court / 1st. Civil Judge and Judicial Magistrate, Mirwah and by way of filing compromise application, they have been acquitted of the charge. Meaning thereby that the surety has not taken any efforts for production of the accused before his Court nor had any knowledge that the accused have surrendered themselves and acquitted by way of compromise, if he would have any knowledge about the movement of the accused, he must have furnished such information to this Court on any date. The surety has failed to complete his liability and he seems to be so lethargic, does not deserve any leniency. Consequently, the surety bond executed by him before this Court on 07.08.2020 is forfeited, he is directed to deposit the full surety amount of Rs.50,000.00 (Fifty thousand) for each accused. In case of failure, the same shall be recovered by the Mukhtiarkar (Revenue), Mirwah as land revenue.

Judge

ARBROHI