

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
Cr. Bail Appln No. 879 of 2021

Date	Order with signature of Judge
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For hearing of bail application  
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13.12.2021

M/s. Syed Hafeezuddin & Syed Ziauddin, advocates for the  
applicants in all criminal Bail Applications  
Ms. Rahat Ahsan, APG  
Ms. Naseema Mangrio, advocate for complainant  
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**AFTAB AHMED GORAR, J.:-** Through the listed bail applications, applicants Zubair Saeed and Muhammad Shahzad both are sons of Muhammad Saeed in Crime Nos.120 of 2021 seek bail in cases registered at Police Station Gabol Town, Karachi, for offences punishable under Sections 380/457/448/34 PPC. The applicants were admitted to pre-arrest bail vide orders dated 24.05.2021 and today the matters are fixed for confirmation of said pre-arrest bail.

2. Learned counsel for the applicants while reiterating the grounds mentioned in the memo of bail application submitted that after obtaining the pre-arrest bail, the applicants are regularly attending the trial court as well as this court and not misused the concession of pre-arrest bail. Learned counsel for applicants further submitted that the applicants are innocent and have falsely been implicated in this case due to enmity by the complainant. He contended that there was dispute of land/plot between the applicants and complainant party hence this FIR was registered with mala fide intentions. He contended that though this is a case of theft but neither any specific article is mentioned to have been theft nor any evidence in support of prosecution has come on record. He contended that all the narrated facts make out a case further enquiry. He prayed that the pre-arrest bail granted to the applicants vide order dated 24.5.2021 may be confirmed.

3. Learned APG Sindh submitted that opposed the confirmation of bail and submitted that these are the cases of theft where the applicants are required by the Investigation Officer for proper investigation and if theft is committed then recovery of theft articles have to be made from their possession,

therefore it is a premature stage to consider the listed applications of the applicants for grant of bail.

4. Learned Counsel for complainant though opposed the grant of bail to the applicants in the listed bail applications and argued the matter at length but she only emphasized on the point that the cases in hand are of trespass and theft of scrap articles which were committed after maltreating the guards stood on the subject plot. She further contended that though the matter regarding title of the subject was subjudiced before the learned civil Court and the learned civil Court was pleased to grant restraining order, however the applicants in violation of stay order of the civil Court, trespassed the plot in question against which a contempt application was also filed which is pending adjudication. She contended that considering the above facts interim pre-arrest bail granted to the applicants vide order dated 24.5.2021 may be recalled.

5. I have heard the learned counsel for applicants and learned Additional Prosecutor General Sindh, learned Counsel for complainant and perused the record.

6. Admittedly in the instant crime, the complainant has claimed theft of articles and criminal trespass. Both the learned APG as well as the learned Counsel for complainant though argued these applications at length but failed to point any article which is claimed to have theft by any of the applicants. On Court query, learned Counsel for complainant replied that theft items are scrap, however when repeatedly asked to point what scrap articles were theft, she failed to reply properly. She could neither point out any theft articles nor any statements of witness recorded under section 161 Cr.P.C. which involve the applicants in the alleged offence.

7. Learned Counsel for the complainant in her lengthy arguments has failed to prima facie link the applicants with the alleged offences rather she argued the case of civil litigation pending between the parties, which itself prima facie goes to establish that the FIR in the listed criminal bail applications are outcome of a civil dispute. Prima facie, case against applicants appears to be doubtful benefit of which shall go to the applicants.

8. No complaint of misuse of concession of bail or tempering the record has been pointed out. The applicants are regularly appearing in the case before this court as well as trial court. It is not out of context to mention here that the object of bail is to secure the appearance of the accused person at their trial by reasonable amount of bail. At bail stage, deeper appreciation of evidence and circumstances appearing in the case are not permitted and only tentative assessment is to be made, however, where accused satisfies the Court that there are reasonable grounds to believe that he is not guilty of such offence, then the Court must release him on bail. Wisdom is sought from the case titled *Yar Muhammad v. The State* and another reported in 2004 YLR 2230.

9. In view of the above discussion, I am of the opinion that reasonable doubt arises with regard to the case of present applicants. Hence, case of the applicants *prima facie* calls for further inquiry. Consequently, the interim pre-arrest bail granted to applicants vide order dated 24.5.2021 is confirmed on same terms and conditions.

10. The listed Criminal Bail Application stands disposed of.

JUDGE