

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
Criminal Bail Application Nos. 843, 769, 785 & 819 of 2021

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Date	Order with signature of Judge
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For hearing of bail application

Date of hearing: 28<sup>th</sup> May 2021.

Date of order: 28<sup>th</sup> May 2021.

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Mr. Tariq Hussain advocate for applicant in Cr. B.A.No. 843/2021  
Mr. Nehal Hashmi advocate for applicant in Cr. B.A.No. 769 & 785 of 2021  
Mr. Amjad Hussain Qureshi advocate for applicant in Cr.B.A.No.819/2021  
Mr. Faheem Hussain Panhwar, Deputy Prosecutor General Sindh

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**Salahuddin Panhwar, J:-** Through captioned Criminal Bail Applications, Applicants/accused Ghufran Khan, Muhammad Amjad, Nooran Shah and Irfan Khan are seeking post arrest bail in Crime No.125 of 2021 registered with Police Station Bin Qasim Malir, Karachi for offences under Sections 462-B/462-C PPC. They applied for bail before learned trial Court, but the same was declined to them.

2. Precisely the facts of the prosecution case are that ASI Allah Dino lodged FIR on 29.03.2021, wherein it is alleged that during patrolling complainant received spy information regarding theft of diesel from pipeline near Shakoor Company Port Qasim. He along with his subordinate staff reached at the pointed place and saw a tanker No. TLD-615. It is further alleged that three persons by installing clip on main line were stealing diesel through generators. Complainant also found a car bearing Registration No.BOW-238 Corolla and Vigo without number at the place of incident. Police encircled the accused persons, however the persons sitting in the Vigo made their escape good. Police arrested applicants and their accomplices from spot and took into possession all the equipments, pipes, two generators, 18 drums loaded with diesel, two tanks, one Tanker as well as Car in presence

of mashirs, thereafter, case property and accused were brought at police station where FIR was lodged against them on behalf of state.

3. Learned counsel for applicants contended that applicant/accused are innocent and has been falsely involved in this case; that no specific role has been assigned to the applicants in the FIR; that though alleged incident took place near Shakoor Company but no person has been cited by the police to witness the arrest and recovery, hence, they prayed for grant of bail to the applicants.

4. Learned Deputy Prosecutor General Sindh opposed bail application on the ground that present applicants were apprehended by the police red handed while stealing diesel along with equipments and filled tanks as well as drums; that no enmity or ill-will has been pointed out against the police officials by the defence counsel to involvement the applicants in such a heinous offence, therefore, he prayed for dismissal of the instant bail application.

5. Heard and perused the record.

6. Admittedly, the case has been challaned. Applicants are no more required for investigation. The whole case of the prosecution rests upon the evidence of police officials, therefore, there is no apprehension of tampering of the prosecution evidence by the applicants. There is nothing on record to show that applicants are previous convicts or have been arrested in a case of similar nature in past; that the recovery mashirs are subordinates of the complainant, therefore their evidence requires deep determination at the time of trial. The alleged incident was taken place near Shakoor Company but no efforts have been made by the complainant to associate any employee of such company to act as mashir. Even in the FIR no specific role has been assigned to the applicants, thus, all these facts require probe which could only be undertaken after recording of the evidence. Undisputedly, the offences with which the applicants are charged provide two alternate punishments of imprisonment, if offence is proved. In such like cases it has been consistent practice of this Court to allow bail on principle that when Statutes provide two punishments then

for the purpose of bail, the lesser one would be considered. Reliance is placed on the case of **Shahzore and others v. The State reported in 2006 YLR 3167 and Muhammad Sharif v. The State and others reported in 2014 P.Cr.L.J 297**

7. In view of the above facts and circumstances the applicants have made out a case for grant of bail. Accordingly, by short order dated 28<sup>th</sup> May 2021, applicants namely Irfan Khan, Nooran Shah, Muhammad Amjad and Ghufraan Khan were admitted to post arrest bail subject to their furnishing solvent sureties in the sum of Rs.100,000/- (Rupees One Lac) each and P.R. bond in the like amount to the satisfaction of the trial Court and these are the reasons thereof.

8. Before parting with the order I would like to make it clear that any observation in this order is tentative in nature and shall not affect the merit of the case.

J U D G E

Sajid