

Order Sheet

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl: Transfer Appln. No. S – 17 of 2023

Date	Order with Signature of Hon'ble Judge
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For hearing of main case

13.03.2023

Mr. Muhammad Shakir Khan, Advocate for Applicant
Mr. Imran Mobeen Khan, Assistant Prosecutor General for State
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Mr. Shabbir Ali Bozdar, Advocate, files power as well as documents through a statement on behalf of Respondent No.1 / complainant, which are taken on record.

Through instant Criminal Transfer Application, the applicant, namely, Umar Bux S/o Pahar Din Mazari, seeks transfer of Criminal Bail Application No.134/2023 (Re- Umar Bux vs. The State) arising out of FIR No.03/2023, registered at Police Station, Khambra, District Ghotki under Sections 302, 147, 148, 149, 337-H(ii) and 114 PPC, from the Court of learned Additional Sessions Judge (MCTC), Ubauro to any other Court in District Ghotki, on the ground that he has threats to his life by the hands of complainant/respondent No.1 in pursuing his bail application at Ubauro.

Heard learned counsel for the applicant, private respondent as well as learned APG for the State.

It appears that the aforesaid criminal bail application was fixed before the learned trial Court / Additional Sessions Judge (MCTC), Ubauro on 25.02.2023, when the learned trial Court passed the following order;-

"B.A called. Applicant/Accused is present on pre-arrest bail. The instant bail application was filed on 23-01-2023 before Honourable, Sessions Judge Ghotki, and the same was transferred to this court and is pending before the court for arguments of the learned counsel for the parties. The learned counsel for the applicant/accused had filed the transfer application on the ground that the accused/applicant has danger to his life while attending the court here. The said transfer application has also been dismissed by the Honourable, Sessions Judge Ghotki. The learned counsel for the accused/applicant as well as accused and the learned counsel for the complainant are in

attendance the learned counsel for the accused/applicant states that he is not ready and prepared to argue the application. I am reluctant to understand the ground taken by the learned counsel for the accused/applicant for the reason that on the one hand learned counsel states that the accused/applicant has danger to his life to appear before the court, on the other hand he repeatedly seeks adjournment on one or the other ground. Moreover the Honourable, Supreme Court in judicial policy directed to decide the bail application within 07 days. To avoid the untoward situation, the learned counsel for the accused/applicant is directed to argue the application until 12:00 Noon otherwise, the application will be decided on merits available in the file and police papers after hearing the arguments of learned counsel for the complainant and Learned ADPP for the State. On second called at 12:00 Noon again the Learned counsel for applicant/accused has filed adjournment application stating therein that the applicant/accused has filed transfer application before the Honourable High Court of Sindh Bench @ Sukkur which has been admitted for hearing and numbered as 17/23, therefore, he is reluctant to argue the application and request for adjournment. On the other hand Mr. Shabir Ali Bozdar the learned counsel for the complainant has opposed the grant of adjournment and stated that according to the judicial policy this court is bound to decide the bail application within 7 days but unfortunately this bail application is pending on the file of this Court since last about one month. The transfer application which was moved by the applicant/accused before the Honourable District and Sessions Judge, Ghotki was dismissed vide dated 13-02-2023. He further submits that the learned counsel for the accused/applicant only wants to drag the matter so that the final report be submitted before the Court and the accused/applicant saved from the investigation of the heinous case of murder. Apart from the divergent arguments of the learned counsel of the parties, I am unable to persuade myself to agree with the ground taken by the learned counsel for the accused/applicant not to argue to application. This is an application of bail before arrest and it can be decided within half an hour after hearing both the parties and there will be no need of the accused/applicant appearing before the court again and again, thus the ground appears to be imaginary and a tack to prolong the matter un-necessarily. However, since the transfer application has been admitted before the Honourable Court of Sindh, therefore as last and final chance the matter is adjourned on the request of learned counsel for the accused/applicant and fixed on his choice date 18-03-2023 with strict directions that no further adjournment will be granted on any ground until and unless any restraining order is brought from the Honourable High Court, otherwise the application will be heard and decided in accordance with law on merits. The applicant/accused are directed to attend for confirmation or otherwise”.

From the perusal of the observations recorded by learned Court below, it appears that the applicant is reluctant to proceed with the bail application after obtaining interim pre-arrest bail and the grounds so made for the transfer of the said Criminal Bail Application, appears to be baseless, hence, the instant Criminal Transfer Application being preferred on frivolous grounds is **dismissed with costs of Rs.25,000/- (Twenty five thousand)** to be deposited by the applicant **within seven (07) days hereof** with the Additional Registrar of this Court for onward transfer to the **Sukkur High Court Bar Library**.

Judge

ABBROHI