

**Order Sheet**  
**IN THE HIGH COURT OF SINDH,**  
**BENCH AT SUKKUR**

Crl. Bail Application No.S- **211** of 2023  
(*Shoukat Ali Arain v. The State*)

Crl. Bail Application No.S- **212** of 2023  
(*Ghulam Mustafa Kharos v. The State*)

Date of hearing	Order with signature of Judge.
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*1.For orders on office objections.  
2.For Hearing of Bail Application*

**27-10-2023**

Mr. Sohail Ahmed Khoso, Advocate along with both applicants.  
Syed Sardar Ali Shah, Additional P.G for the State a/w complainant.

**ORDER**

**MUHAMMAD IQBAL KALHORO, I-** Applicant Shoukat Ali Arain, posted as SHO, P.S, Patni, on account of suspicion of theft, arrested Abdul Sattar, brother of complainant along with his team. When complainant came to visit his brother on 14.02.2023, he saw applicant SHO Shoukat Ali, Munshi Mumtaz Manganhar, P.C Shaman Mirani and two unknown accused torturing his brother to extract confession from him. Complainant pleaded for release of his brother stating that he was innocent, but they refused to let him go. On 17.02.2023, when again complainant visited his brother, he saw the same persons torturing his brother. Finally, on 19.02.2023 dead body of Abdul Sattar was found outside of P.S, which was brought to Taluka Hospital, Rohri for medical examination.

2. Learned counsel for applicants submits that in the investigation, conducted by DSP, applicants have been exonerated and the case only under Section 343 PPC (Illegal Confinement) has been approved against them; that deceased was not disposed of through torture and he had died a natural death; there is no evidence against applicants and

the complainant had failed to report torture by applicants to any higher official within time.

3. On the other hand, learned APG has opposed bail to the applicant Shoukat Ali Arain stating that there is a direct evidence against him which is supported by medical evidence showing that the deceased had died by fracture on his head. However, he has not opposed bail to applicant Ghulam Mustafa Khoso whose name does not appear in FIR and subsequently in further statement of complainant recorded on 17.03.2023, he was named.

4. I have considered submissions of the parties and perused material available on record and agree with learned APG that there is direct evidence against applicant Shoukat Ali Arain. He had arrested deceased Abdul Sattar without formally making it a part of record and for five days kept him illegally on suspicion of committing theft. The way of investigation to extract confession from the suspect, through torture, is evidently alleged in FIR. Complainant has no ill-will or enmity against the police officials to implicate them falsely in the murder of his brother. The allegations against applicant Shoukat Ali Arain that he caused fatal blow on forehead of the deceased are *prima facie* supported by medical evidence. Learned trial Court has also discussed, while dismissing the bail application of the applicants, that the deceased had died out of fracture on his head. Further investigation, conducted by some DSP exonerating applicants on some material, cannot substitute or replace direct evidence against applicant Shoukat Ali. He appears to be involved in the alleged offence which carries capital punishment and therefore is not entitled to extraordinary concession of pre-arrest bail. Accordingly, Crl. Bail Application No.S-211 of 2023 filed by applicant Shoukat Ali Arain is **dismissed** and the interim pre-arrest bail earlier granted to him is hereby **recalled**.

5. However, there is *prima facie* scant evidence against applicant Ghulam Mustafa. His name does not appear in FIR and after more than one month was named as accused by the complainant. His case

requires further inquiry therefore. Accordingly, interim pre-arrest bail earlier granted to applicant Ghulam Mustafa (**Crl.B.A.No.S-212 of 2023**) is hereby **confirmed** on same terms and conditions. The observations made hereinabove are tentative in nature and shall not influence the trial Court while deciding the case on merits.

These bail applications are **disposed of** accordingly. *Office to place a signed copy of this order in captioned connected matter.*

**JUDGE**

Ahmad