

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Bail Appln. No. S – 443 of 2023

Date	Order with signature of Judge
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For Hearing of Bail Application.

29-01-2024.

Mr.Mehfooz Ahmed Awan Advocate
alongwith applicant Asif Ali Korai.
Mr.Sardar Ali Shah Addl.P.G.

ORDER.

ZULIFQUAR ALI SANGI, J- Through this application applicant Asif Ali Korai seeks Pre-arrest bail in Crime No. 35 of 2023 Police Station, Rohri, District Sukkur registered for offence under Section 120-B, 221, 222, 223, PPC. His bail application for the same relief was declined by the Court of learned Vth Additional Sessions Judge, Sukkur vide order dated 25.02.2023.

2. The allegation against the present applicant is that he being the Incharge of C.P-I, Sukkur is involved in escaping of accused Qadir bux @ Babu, who was convicted by the Court for life imprisonment.

3. I have heard the arguments of the learned counsel for the applicant and learned Assistant Prosecutor General appearing on behalf of the State and also perused the police papers.

4. At the initial stage, the matter was investigated and the present applicant was found innocent as such his name was kept in Colum-2 of the challan; however the Magistrate while disagreeing with the report submitted by the police, ordered for further investigation. After conducting further investigation in the matter, once again, the applicant was exonerated from the commission of alleged offence and such

report was filed before the Magistrate on which, the Magistrate took the cognizance.

5. It is observed that while confirming the interim pre-arrest bail of co-accused PC Qamaruddin, H.C Mumtaz Hussain Malik and Babar Ali Khokhar and granting post arrest bail to co-accused PC Illahi Bux and Rustum Ali by this Court vide order dated 16.06.2023, the directions were issued to I.G Prisons Sindh and I.G Sindh Police for conducting an enquiry into the matter taking necessary departmental action against all the delinquents. Such enquiry was conducted and present applicant was found to be the guilty of procedure and protocol prescribed in the jail.

6. Earlier while hearing the arguments in this bail application, the I.O(s) namely SIP Yasir Khoso and SIP Suhail Abbas made allegations against each other, therefore, this Court directed the Home Secretary to constitute a JIT to conduct the investigation into the entire case, which was constituted and the report has been submitted wherein third time, the applicant has been exonerated. For the sake of convenience the conclusions of the JIT are reproduced as under:-

CONCLUSION:

As the result of through investigation, sufficient evidences came on surface against the following accused for their involvement in the escape of convicted accused Qadir Bux @ Babu Sanghar from the Central Prison Sukkur-1. Hence, they are recommended for sent up in the court of law including the convicted accused Qadir Bux @ Babu Sanghar (Absconder).

1. Babar Ali @ Mohammad Babar s/o Ghulam Dastagir Khokhar.
2. PC/2698 Ellahi Bux s/o Ali Bux Bhutto.
3. PC/240 Rustam Ali s/o Nabi Bux Dahri.
4. WASI Sher Ali s/o Mohammad Ibrahim Bullo.

Whereas, no evidence against following accused was found regarding their involvement in the crime, hence, they are recommended to be excluded from the instant case.

1. Asif Ali s/o Ghulam Nabi Korai.

2. HC/Mumtaz Hussain s/o Mohammad Hanif Malik.
3. HC/Qamaruddin s/o Mohammad Ismaeel Khuhro.
4. Mohammad Akthar s/o Mohammad Mithal Sanghar.

CONDUCT OF PREVIOUS I.Os:

The conduct of previous Investigation Officers reflected that they investigated the case fairly and no malafide intensions on their part were observed.

7. The JIT has also made certain suggestions in it's report. After collecting the material during whole investigation, it has also come on record that the present applicant contacted with Akhtar Ali, the brother of the escaped accused Qadir Bux alias Babu to which applicant stated that he had contacted after the accused escaped. On perusal of the material collected during all the investigations, no direct evidence came on record against the present applicant to connect him with the commission of alleged offence. All the co-accused involved in the case, on similar role, have been granted pre-arrest bail as well as post arrest bail by this Court so also by the trial Court, therefore, in such circumstances, the present applicant has also been able to make out a case for further enquiry entitling him for confirmation of interim pre-arrest bail. Consequently, this bail application is allowed and interim pre-arrest bail already granted to the applicant vide order dated 06.03.2023 is hereby confirmed on same terms and condition. The observations made hereinabove are tentative in nature and shall not influence on the merits of the case.

Bail Application No. S- 443 of 2023 stands disposed of in above terms.

JUDGE

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