

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Bail Appln. No. S – 303 of 2022

DATE

ORDER WITH SIGNATURE OF JUDGE

Hearing of bail application

1. For orders on office objection at Flag 'A'
2. For hearing of bail application

07.08.2023

Mr. Amanullah G. Malik, Advocate for the Applicants
Mr. Zulfiqar Ali Jatoi, Additional PG for the State

=====
ORDER
=====

MUHAMMAD IQBAL KALHORO, J.- Applicants, along with others, are standing a trial against allegations of committing murder of deceased Kamaluddin and Haji Karim Bux by firing upon them indiscriminately from lethal weapons they were armed with, while, after committing trespass on house of the complainant, committing dacoity of one Buffalo on 25.09.2016 at odd hours of night, when complainant party mounted resistance.

2. In addition to merits, the main ground emphasized by learned defence counsel seeking relief of bail is that applicant Sohrab is in jail since 2016 and applicant Nazeer since 2018, but so far the case has not been concluded. In support of his contentions, he has relied upon the ***cases of Muhammad Azeem v. The State and others (2020 S C M R 458); Nadeem Samson v. The State and others (P L D 2022 Supreme Court 112); Shakeel Shah v. The State and others (2022 S C M R 01) and Sher Afzal v. The State and another (2022 S C M R 186).***

3. On the contrary, learned Additional PG has resisted the applicants' attempt to seek relief of bail by stating that entire trial has come to a conclusion and the case is fixed for statement of accused which due to absence of defence counsel has not been recorded.

4. I have considered submissions of parties and perused material available on record. A perusal of case diaries show that entire trial has been

processed, all the witnesses have been examined and the case is fixed only for recording of statement of accused which on a number of dates could not be done on account of uninformed absence of learned defence counsel. Prima facie, therefore, delay in conclusion of trial is not attributable to the prosecution. Which ground even otherwise is not attracted as the prosecution has already led its entire evidence and now it is the turn of applicants to adduce their evidence, if any. Record further shows that before this application, the applicants had filed application for similar relief before this Court after dismissal of their bail application by the trial Court in August, 2021, which were not pressed by them when this Court decided to give directions to the trial Court for conclusion of the trial, instead of granting them relief ostensibly the directions given by this Court have been complied with and the case has moved to a definite conclusion, but only for learned defence counsel's appearance before the trial Court to proceed further. It has also been informed by learned Additional PG that in the evidence, *prima facie* the witnesses have implicated the applicants. So even on merits, applicants have no case for bail for good measure.

5. Nevertheless, learned Additional PG has informed that recently Presiding Officer of the trial Court i.e. V-Additional Sessions Judge, Sukkur has been transferred and he has no objection, if the case is transferred to Additional Sessions Judge (Hudood), Sukkur for expeditious disposal in accordance with the law. I, therefore, by dismissing the application in hand, withdraw the case from the file of V-Additional Sessions Judge, Sukkur and transfer it to the Court of learned Additional Sessions Judge (Hudood), Sukkur, with consent, for making further progress in the trial and concluding the same within a period of two months hereof.

6. The bail application stands disposed of in the above terms.

Judge

ARBROHI