

**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT HYDERABAD**

**Cr. Bail Application No.S-202 of 2024**

Applicant: Iftikhar Ahmed Khan s/o Abrar Ahmed Khan,  
through Barrister Jawad Ahmed Qureshi,  
Advocate.

**Cr. Bail Application No.S-203 of 2024**

Applicants: **(1)** Asadullah Barkat s/o Inayatullah Barkat,  
**(2)** Altanullah Barkat s/o Asadullah Barkat,  
**(3)** Amar ullah Barkat s/o Asadullah Barkat,  
**(4)** Muhammad Tariq Shaikh s/o M. Akram,  
through Mr. Ayatullah Khuwaja, Advocate.

Respondent: The State, through Mr. Siraj Ahmed Bijarani,  
Assistant Prosecutor General, Sindh.

Complainant: Inspector Agha Hussain, through Syed Tarique  
Ahmed Shah, Advocate.  
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Date of hearing: 23.09.2024

Date of order: 23.09.2024  
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**ORDER**

**ZAFAR AHMED RAJPUT, J:-** By this common order, I intend to dispose of both above bail applications, as the same have arisen out of same Crime/F.I.R bearing No.02 of 2024, registered at PS ACE, Hyderabad Circle, under sections 409, 420, 467, 468, 471, 34, P.P.C., read with Section 5(2) Act-II, 1947.

**2.** Through captioned bail applications, applicants, namely, Iftikhar Ahmed Khan s/o Abrar Ahmed Khan, Asadullah Barkat s/o Inayatullah Barkat, Altanullah Barkat s/o Asadullah Barkat, Amar ullah Barkat s/o Asadullah Barkat, and Muhammad Tariq Shaikh s/o Muhammad Akram, respectively, seek pre-arrest bail in aforesaid crime. Earlier, their applications for grant of pre-arrest bail were dismissed by the learned Special Judge, Anti Corruption (Provincial) Hyderabad, vide orders dated 23.02.2024 & 26.02.2024, respectively. The applicants were admitted to

interim pre-arrest bail by this Court, vide orders dated 26.02.2024, now they seek confirmation of the same.

**3.** Briefly stated facts are that a copy of legal notice issued by advocate Muhammad Ameen Qureshi on behalf of one Makhdoom Munir-ul-Haque Siddiqui was received by the Circle Officer, A.C.E Hyderabad. It is alleged that H.G Builders & Developers had announced two projects under the name and style of “*Hero Square*” constructed over **plot No.156**, admeasuring 806-66 sq.yys situated in Block-D, Unit No.7, Latifabad, Hyderabad, wherein said Makhdoom Munir-ul-Haque Siddiqui purchased one unit/pharmacy, admeasuring 306 sq.fts at Ground Floor through registered Sale Deed No.2442 dated 29.09.2021, executed before Sub-Registrar, Latifabad and such mutation was also effected in the record of HMC vide No.3922, dated 21.11.2022. It is further alleged that prior to purchase, said Makhdoom Munir-ul-Haque had also checked the existence of pharmacy/unit in the Completion Plan No.08 dated 31.12.2020, wherein it was the part of saleable covered area i.e. 3857-06 sq.fts. Thereafter, said Makhdoom Munir-ul-Haque came to know that H.G Builders & Developers have become dishonest and were trying to sell the entire saleable covered area of Ground Floor to someone else, though they are not competent to sell the same but they could only sell the remaining area of Ground Floor i.e. 3550-4 sq.fts. This fact was also confirmed by him while visiting the office of Sub-Registrar, Latifabad who after checking the Day Book informed the above named purchaser about the execution of subsequent sale deed No.2772, dated 27.10.2022, regarding the sale of Ground Floor, admeasuring 3786 sq.fts with common passage, admeasuring 1456-05 sq.fts, Basement Floor admeasuring 414-0 sq.fts (*total area 5656-05 Sq.fts*) in favour of one Abid Hussain Shah, which was illegal. It is further alleged that the Hero Square Project had also been constructed in violation of N.O.C No.159, dated 28.02.2018, issued by the Sindh Building Control Authority

(SBCA) to the extent of ground plus four but the H.G Builders & Developers had raised construction up-to 8<sup>th</sup> Floor but no action was taken by the Deputy Director, SBC, Latifabad and raised no question on illegal conversion of the residential plot into commercial.

4. Learned counsel for the applicants contend that the applicants are innocent and have falsely been implicated in this case; that the complainant has managed a false story; that the parties have civil dispute over the sale of one unit to different parties; that it is a fit case for further inquiry.

5. Conversely, learned A.P.G, as well as learned counsel for the complainant while opposing these bail applications maintain that the applicants are nominated in the F.I.R by names and with specific role; that the applicants have been identified by the complainant who has nominated them in the F.I.R, as such; they are not entitled for bail.

6. Heard the learned counsel for the applicants, complainant and A.P.G and perused the material available on record with their assistance.

7. It appears from the perusal of the record that **applicant Iftikhar Ahmed Khan** (*in Cr. Bail Application No.S-202 of 2024*) was posted as Inspector HMC Latifabad. As per challan, he with the connivance of Director Land Mr. Shahid Ali Khan, made changes in the area of Plot No.156 Block-D, Unit No.7 Latifabad from 600 to 806.66 sq.yds and gave undue advantage to lessee Mr. Goharullah s/o Inayatullah, who sold out above plot with an area of 806.66 sq.yds to M/s H.G Builders & Developers Hyderabad through sale agreement dated 21.08.2018. It has further been alleged in the challan that he was Beat In-charge for a long period and in his tenure, NOC for conversion from residential to commercial and construction of multi storied building ground + 4 in respect of above plot was also issued by the office of Deputy Director

Land H.M.C for an area of 806.66 sq.yds but no report was submitted by him regarding previous lease deed of plot which is only for 600 sq.yds. While **Applicants Asadullah Barkat, Altanullah Barkat, Amar ullah Barkat and Muhammad Tariq Shaikh** (*in Cr. Bail Application No.S-203 of 2024*) are beneficiaries. As per challan, they all with connivance of each other and with the help of Sub-Registrar Latifabad, Ghulam Mustafa Phulpoto, had made duplication of the area malafidely through sale deed registration No. 2263, dated 31.11.2022, and illegally sold out ground floor area 3786 sq.fts., including area of HESCO Sub-Division, sharing area, common passage as well as Air Raid Shelter at basement measuring 414 sq.fts to co-accused Adil Hussain Shah.

**8.** It appears from the perusal of the record that the subject **plot No.156**, admeasuring 600 sq.yds., was originally allotted to one Muhammad Islam on 15.09.1955, then it was transferred to one Mst. Shahina Naheed on 31.12.1969. She sold out the said plot to Mrs. Shaheen Begum on 30.04.1995, she sold out the said plot to M/s. Barkat Limited on 13.06.1997 and, thereafter, the dimension of the plot from 600 sq.yds to 806.66 sq.yds was changed under the approval of Administrator, HMC on 18.09.2013 and such endorsement was made in original Allotment. Subsequently, M/s. Barkat Limited sold out the subject plot to M/s. H.G Builders & Developers. The HMC has not challenged the alleged change in dimension, which was changed during the time of the predecessor-in-interest of present owners i.e. H.G Builders & Developers. Even the then Administrator, HMC who approved alleged change in dimension has not been made accused if the same was in violation of any rule and regulation.

**9.** Under the circumstances, it is yet to be seen at trial if alleged acts of the applicants come within "criminal misconduct" as defined under section 5 of the Prevention of Corruption Act, 1947. It may be observed

that bona fide purchasing of a property with extended dimensions and conversion thereof into commercial use is to be seen in the light of the pro and contra evidence at the time of trial, if the same comes within the purview of cheating, forgery for the purpose of cheating etc.; hence, the guilt of the applicants requires further enquiry as envisaged under sub-section (2) of Section 497, Cr. P.C.

**10.** For what has been discussed above, interim bail granted to applicants/accused namely, Iftikhar Ahmed Khan s/o Abrar Ahmed Khan, Asadullah Barkat s/o Inayatullah Barkat, Altanullah Barkat s/o Asadullah Barkat, Amar ullah Barkat s/o Asadullah Barkat, and Muhammad Tariq Shaikh s/o Muhammad Akram, vide orders dated 26.02.2024 is hereby confirmed on the same terms and conditions.

**11.** Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicants on merits. In case applicant(s) in any manner tries to misuse the concession of bail, it would be open for the trial Court to cancel his bail after issuing him the requisite notice.

**JUDGE**

***\*Hafiz Fahad\****