

## IN THE HIGH COURT OF SINDH, KARACHI

### Cr. Bail Application No.1859 of 2024

APPLICANT : Ashraf son of Pathan  
through Mr. Mansoor Ahmed Turk,  
Advocate

RESPONDENT : The State  
through Ms. Seema Zaidi,  
Additional Prosecutor General Sindh

COMPLAINANT : Noor Muhammad  
through Mr. Aizaz Hussain Shah,  
Advocate

Date of hearing : 03.10.2024

Date of Order : 29.10.2024

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### ORDER

**Omar Sial, J.** Ashraf Khaskheli has sought post-arrest bail in crime number 120 of 2023, registered under sections 302, 324, 109, 504, and 34 P.P.C. at the Mirpur Sakro police station. His application seeking bail, filed before the learned 1<sup>st</sup> Additional Sessions Judge, Thatta, was dismissed on 20.07.2024.

2. The F.I.R. mentioned above was registered on 24.08.2023 on the complaint of Noor Mohammad Khaskheli. Noor reported that he fell in love with and married the daughter of Abdullah Khaskheli, which enraged her father. Earlier that day, Noor, along with his brother Khamiso and another relative, came to the clinic of Dr. Samejo, where the applicant armed with a pistol, Allah Bux with a

dagger, and Mehboob with a cudgel came there. Allah Bux stabbed Khamiso twice, whereas Ashraf (the applicant) fired his pistol at the complainant but missed. Khamiso subsequently died.

3. This is Ashraf's second bail application filed in the High Court. This Court dismissed the first (Crl. Bail App. No. 2152 of 2023) for a pre-arrest bail, which was rejected on 06.12.2023. At that stage, the court was of the view that though Ashraf was accused of ineffective firing, he failed to indicate malafide and that common intention could perhaps be shown by his coming armed at the clinic and also firing from his pistol. A combination of both factors and the fact that he was seeking pre-arrest bail was why he was denied bail. The situation has changed since then. This is an application seeking post-arrest bail, where showing malafide is not as critical as it is at the pre-arrest bail. The observation regarding common intention in the previous order was upon a tentative assessment. Keeping in view that Ashraf finally surrendered before the court went in his favor, as had he the intention to abscond, he had plenty of opportunity to do so. I am inclined to give him the benefit of the doubt on the grounds of common intention at this post-arrest stage. Historically, courts have given concessions at the post-arrest bail stage when a co-accused allegedly accompanies the main accused but does not cause any injury. I have been informed that the applicant is no longer required to be investigated. He had ample opportunity to abscond

but did not, and no apprehension of his tampering with the evidence has been voiced.

4. Given the above, the applicant is admitted to post-arrest bail subject to his furnishing a solvent surety of Rs. 500,000 and a P.R. Bond in the like amount to the satisfaction of the learned trial court. As a further condition of bail, the applicant is restrained from contacting the complainant, his family, or the witnesses of the case, directly or indirectly, in any manner. If the complainant gives evidence of a breach of this condition, the learned trial court shall be empowered to cancel the concession given herein.

JUDGE