

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

Criminal Bail Application No.S-931 of 2024  
Criminal Bail Application No.S-939 of 2024  
Criminal Bail Application No.S-940 of 2024  
Criminal Bail Application No.S-1152 of 2024

Applicants : Hadi Bux Lashari in Criminal Bail Application No.S-931 of 2024 through Mr. Noor-ul-Haq Qureshi, Advocate along with M/s. Saad Salman Ghani and Ammar Ahmed, Advocates.

Dildar Ali Panhwar and Arshad Ali in Criminal Bail Application No.S-939 of 2024 through Mr. Nisar Ahmed Channa, Advocate.

Mehmood Ahmed Khan in Criminal Bail Application No.S-940 of 2024 through Mr. Shakir Ali Talpur, Advocate.

Muhammad Hanif in Criminal Bail Application No.S-1152 of 2024 through Mr. Ayatullah Khowaja, Advocate.

Respondent : The State through Ms. Rameshan Oad, Assistant Prosecutor General Sindh along with SDPO/DSP Qurban Ali Mallah, Investigating Officer of the case.

Complainant : Mir Hassan through Mr. Rasood Bux Solangi, Advocate.

Date of hearing : 25.11.2024.

Date of Order : 25.11.2024.

**ORDER.**

**Amjad Ali Sahito, J:-** Since all these captioned bail applications are arising out of one and the same crime, as such, the same are being decided together by this common order. The applicants namely, Hadi Bux Lashari, Dildar Ali Panhwar, Arshad Ali, Mehmood Ahmed Khan and Muhammad Hanif are seeking pre-arrest bail in crime No.209/2024 registered at PS Tando Muhammad Khan for the offence under sections 302, 201, 34 PPC. Earlier, their bail plea were turned down by learned Additional Sessions Judge-I, Tando Muhammad Khan vide common order dated 22.08.2024.

2. The details of the FIR are included in the bail application and its attached copy, so there is no need to restate them here.

3. Learned counsels for applicants contend that the applicants are innocent and have been falsely implicated in the case. Complainant party is involved in so many criminal cases and in order to create pressure upon the applicants, they have implicated them otherwise, initially the complainant disclosed that incident took place in the house of SDPO and subsequently he

diverted story in the FIR by disclosing that incident took place at Raheel Banquet and the complainant also discloses to letting know about the murder of deceased on social media. In fact, this is an encounter took place between the police and the deceased along with his companions, in which the deceased Sikandar was injured and such FIR bearing crime No.76/2024 was registered by SIP Muhammad Hanif for the offence under section 324, 353, 34 PPC at PS Bulri Shah Karim wherein place of incident is shown as "Main Road Tando Muhammad Khan-Bulri Shah Karim 10<sup>th</sup> Mile near Musafir Khana" at the distance of about 17/18 kilometers from PS. They further pointed out that on the basis of statement of one passerby namely Niaz, the applicants have been booked; however, in fact the incident took place on 14.07.2024. Whereas the FIR in respect of the incident was registered on 25.07.2024 with delay of about 09 days. Per learned counsel after registration of FIR, the PW Niaz was examined who implicated present accused in the commission of offence; however, he remained mum for about 10 days. Lastly they pray for confirmation of interim pre-arrest bail already granted to the applicants.

4. On the other hand, learned A.P.G. as well as learned counsel for the complainant have vehemently opposed grant of bail to the applicants and contend that name of applicants appear in the FIR with specific role that on the day of incident in presence of two witnesses Niaz and Pir Masoom Jan Sarhandi they have injured the deceased Sikandar and thereafter referred him to Civil Hospital. They also rely upon the statement of police officer namely SIP Muhammad Hanif wherein he has denied the incident and implicated the police officials; however, SIP Muhammad Hanif present in Court states that due to pressure of Mallah Community he has made such statement he says that the applicants have falsely been implicated in the instant case. Lastly they pray for dismissal of instant bail applications.

5. Heard and perused the record.

6. From perusal of record, it appears that the first FIR No.76/2024 was registered at PS Bulri Shah Karim for offenses under sections 324, 353 and 34 PPC. According to the FIR, the complainant, SIP Muhammad Hanif (who is also the applicant in this case), was on patrolling duty and on spy information, he and his team encountered three armed persons on the main road near Musafir Khana at 10th Mile, Tando Muhammad Khan-Bulri Shah Karim. The suspects opened fire on the police, prompting a retaliatory response, during which one of the suspects, Sikandar Mallah, was injured by a gunshot to his right knee, while the other two succeeded to escape. Whereas, in the FIR lodged by the complainant Mir Hassan Mallah stated that he looks-after the lands of his landlord, Pir Masoom Jan Sarhandi, in Deh Kathore. His nephew, Sikandar Mallah (25 years old), was taken by police officers Hadi Bux Lashari, Dildar Panhwar, and Arshad Ghutko on 25.07.2024, on the pretext of an investigation. The officers assured

they would return Sikandar after investigation, but he did not return by evening, causing concern. As such, complainant Mir Hassan informed his landlord, Pir Masoom Jan Sarhandi, who contacted Hadi Bux Lashari and Hadi Bux Lashari assured him that Sikandar was fine and would be produced before the Court on the following morning. However, Sikandar was never produced in Court. On 13.07.2024, it was reported on social media that Sikandar had been shot by police, on which they rushed but they were informed that Sikandar had been transferred from Tando Muhammad Khan Civil Hospital to Hyderabad, where he later died on 14.07.2024. The complainant alleged that Sikandar was assaulted by the accused officers at CIA House then taken to the old Foji Sugar Mill ground near Royal Banquet, where he was shot at around 0030 hours on 14.07.2024. A chance witness, Niaz, allegedly saw the incident. The complainant asserts that the accused police officers, including SHO Mehmood Pathan and Inspectors Muhammad Hanif Rajo, Hadi Bux Lashari, and their team, falsified the FIR to cover up the murder.

7. The FIR lodged by the complainant, Mir Hassan Mallah, contains conflicting narratives regarding the circumstances of death or murder of Sikandar Mallah. The complainant initially stated that Sikandar was taken by police officers for an investigation, with an assurance that he would return. However, there was no mention of the alleged police assault and shooting in the initial FIR, which raises concerns about the truthfulness of the allegations made later. This discrepancy between the FIR and the complainant's claims indicates that further inquiry is required to ascertain the facts. Further, the FIR against the applicants appears to have been lodged with a significant delay after the alleged incident, *prima facie* raising doubts about the credibility of the allegations. The complainant's report about death of Sikandar came after a period of time and this gap in time between the incident and the lodging of the FIR, joint with the obvious effort to cover up the death, suggests that the situation warrants further investigation.

8. The complainant has heavily relied on the statement of one chance witness, Niaz, who allegedly observed the shooting at the old Foji Sugar Mill ground. However, his statement alone, which too after delay of ten days and his silence for such period, does not *prima facie* constitute strong evidence that directly, implicates the applicants (the police officers) against whom, the allegations are based on circumstantial and indirect evidence, such as their involvement in the investigation and the claim of falsification of the FIR. However, there is no direct evidence to show that the applicants were personally involved in the assault or shooting of Sikandar Mallah. The complainant on one hand stated in the FIR that he came to know about the incident through social media and on the other hand he disclosed that one Niaz had informed about the incident but he remained mum for 10 days, when he knew the complainant party

previously and presently. The complainant in his application addressed to DSP Complaint Cell disclosed that the applicants/accused committed murder of deceased Sikandar Mallah in the SDPO's house whereas, in the FIR he disclosed that the incident took place at old Foji Sugar Mill ground opposite Royal Banquet, even he is not sure as to where the incident took place, as such, this case itself has become the case of further inquiry. The allegation of the complainant that the police officers falsified the FIR to cover up the murder, which seriously, remains an allegation at this stage, as such, the matter requires thorough investigation before determining the involvement of the applicants. More so, the applicants have submitted that numbers of the cases are registered against the deceased and his family members, as such, they have cooked up a false story to create pressure upon police, the applicants. It is also relevant to mention that so far role assigned against the applicant Hadi Bux that he is Incharge CIA Tando Muhammad is concerned, the learned counsel for the applicants have relied upon the transfer/posting order dated 31.05.2024 [available at page in Court file of (Cr.B.A. No.S-931/2024) along with statement dated 09.09.2024] which shows that Hadi Bux was transferred from Police Line Operation, Tando Muhammad Khan to Incharge CRO Branch, Tando Muhammad Khan, as such, it is stated that he has, *prima facie*, wrongly been implicated in the case. The applicants have no apparent reason to abscond or obstruct the judicial process and they have not been shown to be a flight risk, nor is there any evidence that they are attempting to interfere with the investigation or tamper with evidence keeping in view their professional positions. They are also cooperating with the investigation.

9. Significant issues have been raised regarding the credibility of the prosecution case, including the delay in the registration of the FIR, the inconsistencies in the complainant's version of the incident, and the unexplained gap in time between the alleged occurrence of the incident and the involvement of the witness Niaz. Furthermore, the learned counsel for the applicants have pointed out that the FIR does not exactly reflect the sequence of events, especially considering that the initial statement by the complainant on social media was inconsistent with the story presented in the FIR. The prosecution has failed to demonstrate any compelling evidence that would justify the denial of bail at this stage.

10. In light of the above facts and circumstances, I am of the view that there is sufficient material for the confirmation of interim pre-arrest bail of the applicants already granted to the applicants. The applicants have made out a case for further inquiry as envisaged under subsection 2 of section 497 Cr.P.C. Accordingly, I hereby **allow** the captioned bail applications and confirm the interim pre-arrest bail already granted to the applicants, on the same terms and conditions with direction to the applicants to continue to abide by the terms of the

bail. The applicants are required to appear before the Investigating Authorities as and when called, and failure to do so may result in the cancellation of the bail.

**11.** Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicants on merits.

**JUDGE**

\*Abdullah Channa/PS\*