

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

Cr. Bail Appln. No.S-1309 of 2024  
Cr. Bail Appln. No.S-33 of 2025  
Cr. Bail Appln. No.S-44 of 2025

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
Applicant	: Kashif Ali @ Kashi son of Gulab Khan Khaskheli, through Mr. Safdar Ali Memon, Advocate.
Applicant	: Rafique Hussain son of Allah Bachayo Lakho Through Mr. Niaz Hussain Bhutto, Advocate.
Applicants	: Mst. Fazeelat Arshad, Munza Kanwal and Sana Through Mr. Rajab Ali Chang Advocate.
The State	: Through Mr. Irfan Ali Talpur, Assistant P.G.
Date of hearing	: 03.02.2025.
Date of Order	: 03.02.2025.

**ORDER**

**ABDUL HAMID BHURGRI, J:-** Being un-successful in obtaining their release on bail from the Trial Court in Crime No.244 of 2024 registered at P.S Hala District Matiari for offences under Sections 371-A, 371-B PPC, the above named applicants are seeking their release on bail through the instant bail applications respectively and by this common order the same are being disposed of.

2. The facts of the case in brief are that on 24.11.2024 complainant ASI Sain Dino Khaskheli of P.S Hala alongwith other police officials left for patrolling in a government vehicle in the area. During patrolling when they reached Press Club Chowk Hala they received spy information that a person namely Kashif Ali @ Kashi Khaskheli (on of

the present applicants) is using the women for prostitution in his house and on receiving such information they reached the pointed place where they saw four men and five women standing there. All of them were apprehended and on search they disclosed their names as Kashif Ali @ Kashi, Zaheer, Rafaqat, Fazelt, Muneeza and Ms. Sana Memon, Assistant P.G. Some of the accused persons succeeded in running away whose names later on were disclosed as Batool @ Matia, Sonia, Jamro Baloch. Upon inquiry, the women accused disclosed that Kashif Ali @ Kashi used to send them towards different persons for prostitution; hence, they were arrested and instant FIR was registered against them on behalf of the State.

3. Learned Counsel for the applicants have jointly contended that applicants are innocent and they have been falsely involved in the instant crime on account of political rivalry; that no private person has been associated by the police as witness in the proceedings despite they were having prior information about the alleged incident which is clear violation of Section 103 Cr.P.C.; that all the PWs are police officials and subordinate to complainant which requires further probe into the matter; that none of the applicants was found doing any bad act at the place of incident; that I.O of the case submitted challan in cancel "C" class and such report was not accepted by the trial Court; that no incriminating material has been brought on record by the police to establish that applicants were doing immoral acts with each other; that co-accused Batool whose role is allegedly same has been granted bail by the trial Court and the case of the present applicants is the same to that of co-accused, therefore, the rule of consistency is applicable to the present applicants. Learned Counsel lastly prayed that applicants may be granted bail for which they are ready to furnish required sureties.

4. Learned APG while opposing the bail plea of the applicants has vehemently contended that prostitution is menace to the society and for its prevention police is authorized to enter in a suspected place and appropriate legal action can be initiated against the persons indulged in immoral activities; that applicants have been arrested doing such immoral activities and they have not brought on record any enmity of the police with them.

5. I have heard learned Counsel for the applicant as well as learned APG and perused the record available before me. As per prosecution story, the applicants were caught red handed by the police alongwith co-accused while they allegedly were doing immoral acts in a house. In the case in hand all the applicants were reportedly found in objectionable condition in a house of Kashif Ali @ Kashi when the police raided upon, therefore, they cannot be made accused for offences under Sections 371-A / 371-B PPC., but for fornication under Section 496-B PPC if they were having sexual intercourse with each other. It has further been observed that no medico-legal report is available which could support the act of recent intercourse, neither stained clothes nor any other forensic material was collected from the place of occurrence. Even no linked material has been brought on record to show the women accused as a prostitute and house of Kashif Ali @ Kashi was being used as brothel, so as to attract the ingredients of the offence. In this case, co-accused Mst. Batool whose role allegedly is same as that of present applicants has been granted bail by the trial Court and therefore rule of consistency is also applicable to the case of present applicants who are behind the bars since their arrest and no purpose would be served by keeping them in custody for an indefinite period. With reference to Section 497 Cr.P.C., reliance is placed upon the dictum laid down by the Honourable Supreme Court of Pakistan in a case reported as "Muhammad Nawaz alias Karo v. The State" (2023 SCMR 734), which reads as under:-

*"This court has time and again held that liberty of a person is a precious right, which cannot be taken away unless there are exceptional grounds to do so. Merely on the basis of bald allegations, the liberty of a person cannot be curtailed."*

6. Accordingly, by a short order the applicants were admitted on post arrest bail subject to their furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand) each and P.R Bonds in the like amount to the satisfaction of the Trial Court and these are the reasons of the said short order.

7. Needless to mention that the observations made hereinabove are tentative in nature and shall not in any way prejudice the merits of the case at the trial.

Bail applications stand disposed of.

JUDGE