

IN THE HIGH COURT OF SINDH, KARACHI

Present:-

Mr. Justice Ali Haider 'Ada'

Criminal Bail Application No. 177 of 2025

Applicant : Ghulam Farooq Chandio son of
Fateh Khan Chandio,
Fateh Khan Chandio son of
Gullan Khan Chandio,
Through Mr. Muhammad Daud Narejo,
Advocate alongwith M/s Muhammad
Yousuf Narejo & Kamran Ali Advocates

Respondent : The State,
Through Mr. Altaf Hussain Khokhar,
Deputy Prosecutor General, Sindh

Date of Hearing : **18.02.2025**

Date of Order : **18.02.2025**

ORDER

ALI HAIDER 'ADA', J:- Through this bail application, applicants seek pre-arrest bail in Crime No. 29 of 2021 registered at P.S Mirpur Bathro, for offence punishable under Section 302/311/201/34 PPC.

2. The brief facts of the case are that on 11.03.2021 one SIP Imam Bux registered an FIR in which narrated that ASI Suleman, investigating officer, visited hospital where Medico Legal Officer disclosed that one dead body of Mst. Fehmida aged about 16/17 years was brought to hospital and her relatives informed that deceased received fire arm injury and her postmortem was not conducted and police was informed as relatives of the deceased forcibly took away the dead body without postmortem examination. On such information police party headed by DSP approached at village, in which accused party resisted and injured to police party and later on police registered the said FIR.

3. Learned counsel for the applicant/accused contended that co-accused namely Farooq who is son of Applicant No.2 as well as brother of deceased was acquitted by the learned trial Court vide judgment dated 02.04.2024 and said judgment was passed on the points of merits instead of any kind of compromise. He further submits that no doubt applicant was declared absconder by the learned trial Court but it settled law that

abscondence of accused is no ground of refusal of bail once accused has come forward. He made reliance upon 2022 SCMR 47.

4. On the other hand, the learned Deputy Prosecutor General invited attention to Page-73 of the file in which it is stated that fire arm injury which was hit on the chest and it was not possible for person who commits suicide caused repeater fire herself as such aspect is become very strong to establish prima-facie case and one of the relatives put to evidence. He further submits that recovery of repeater from Fareed was also effected but he was acquitted. Lastly he submits that as they are proclaimed offender, therefore, both applicants have loose their normal rights.

5. Heard arguments and perused the material available on record.

6. The record reflects that the judgment is in field which was passed by learned trial Court as no criminal acquittal appeal is filed, as such query when raised from learned DPG, in which he replied that no appeal is filed as per instructions. Further the case of the prosecution relies upon same police story in which they were also injured but when police personnel were examined they did not produce any kind of medical certificate, in which show that police personnel were injured, further the proclamation under Section 87/88 Cr.P.C. has procedure and Courts are bound to laid down the procedure. As such process was not adopted by the Courts having jurisdiction. In the case of Mitho Pitafi 2009 SCMR 299 the Hon'ble Apex Court observed that it is well settled principle of law that Bail can be granted if an accused has good case for bail on merit and mere abscondence would not come in way while granting the Bail. It is also well settled principle of law that no useful purpose was likely to be served if bail of accused (respondent) was cancelled on any technical ground because after arrest he could again be allowed bail. Reliance is made upon 1986 SCMR 1380.

7. In view of the above circumstances, the applicants have made out their case for confirmation of their bail. Accordingly, instant bail application is hereby allowed; interim bail granted earlier to applicants on 21.01.2025 is hereby confirmed on same terms and conditions.

8. Applicants present before the Court are directed to continue their appearance before the trial Court without negligence and in case they may misuse the concession or may tamper with prosecution's evidence then the trial Court would be competent to take legal action against them as well as their surety.

9. It need not to iterate that the observation(s) made hereinabove is/are tentative in nature and shall not prejudice the case of either party during trial.

JUDGE

Imran