

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Bail Application No. S-237 of 2025

Applicants: Farman Ali and Ghulam Ali *through* Mr. Shabbir Ali Bozdar, Advocate

Complainant: Qadir Bux, *through* Mr. Rasheed Ahmed Machhi, Advocate

Respondent: The State, *through* Mr. Mansoor Ahmed Shaikh, Deputy Prosecutor General, Sindh

Date of hearing: 17.7.2025

Date of decision: 17.7.2025

ORDER

Muhammad Jaffer Raza, J.- Through captioned criminal bail application, applicants Farman Ali and Ghulam Ali both sons of Rano Lund, seek post-arrest bail in FIR No.19/2023, registered at P.S Yaro Lund, for the offence punishable under Sections 452, 365-B, 148 and 149 PPC.

2. Prior to noting the contentions of the learned counsel, it is important to highlight the timeline in the instant case. Earlier the applicant were admitted to interim pre-arrest bail which was granted. The same was subsequently recalled vide order 15.05.2023. Thereafter the applicants preferred post arrest bail which was declined vide order dated 28.02.2024. Subsequently the bail was preferred before this Court which was declined on 16.04.2024. Subsequently another bail application was preferred before the learned Court of Additional Sessions Judge Mirpur Mathelo and the same bail was also declined vide order dated 08.03.2025. The instant bail application has been preferred by the applicants on the ground that the circumstances have materially changed since the last dismissal of the bail of the present applicants.

3. Learned counsel for the applicants has contended that even though the bail has been declined repeatedly, they are entitled to the concession of bail for the

reasons that the alleged abductee has filed Constitutional Petition No.496 of 2025 before the High Court of Sindh at its Principal Seat. He has further stated that the petitioner No.2 in the above noted petition is their brother namely Majid Ali and the same was jointly filed along with the alleged abductee. He has further argued that in the said petition relief was sought by the petitioners and the petitioners unequivocally claimed that they had been married and are residing happily. Further learned counsel has argued that even otherwise they are entitled for the concession of bail as they have been incarcerated for about 02 years and no significant progress has been made at trial. Further he has argued that there is delay of approximately 14 days between the date of incident in lodging of FIR and the same is fatal to the case of prosecution as the parties reside in the same village.

4. Conversely learned counsel for the complainant has argued that the above noted constitutional petition was filed by one Ms. Salma and the alleged abductee is Mst. Shani, therefore, it is not the same individual. He has further argued that the bail has been repeatedly refused to the applicants, therefore, they are not entitled for the concession of bail and this Court may direct the trial Court to proceed with the matter expeditiously and decide the fate of the present applicants.

5. Learned APG has supported the arguments of the learned counsel for the complainant and stated that the applicants are not entitled for the concession of bail as it is yet to be determined whether the above noted Constitutional Petition was filed by the alleged abductee or another individual who is not connected with the case at hand. He has further argued that the applicants are accused of heinous offences and therefore falls within the prohibitory clause of section 497 Cr.P.C.

6. I have heard the learned counsel for the respective parties and perused the record available before me.

7. It is evident that the concession of bail has been repeatedly declined to the applicants, however, I agree with the contention of the learned counsel for the applicants that the circumstances have materially changed in due course. Irrespective of the identity of the petitioner in above noted petition, it is apparent that this is a clear case of further inquiry in which the applicants are entitled to concession of bail. I have specifically asked the learned counsel for the complainant to examine the photograph of the petitioner on the affidavit filed before the Principal Seat at Karachi. In this regard the learned counsel has not given any definite answer as to whether this is the photograph and the CNIC of the alleged abductee. Further, the applicants have been incarcerated for over 02 years and there is no significant progress at trial.

8. In light of the above noted circumstances, the applicants are admitted to bail subject to their furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand) each, along with personal bonds in the like amount, to the satisfaction of trial Court.

9. Needless to mention 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