ORDER SHEET

THE HIGH COURT OF SINDH AT KARACHI

Cr. Bail Appln No.651 of 2010.

Date: Order with signature(s) of the Judge(s)

D/o. Matter.

1. For Orders on MA No.989/2026.
2. For Orders on MA No.12309/2026.
3. For Orders on MA No.16341/2026.

13th October, 2026.

Mr. Raheel Ali Bhatti advocate for the Applicant/surety.
Mr. Abrar Ali Khichi, Addl. P. G. Sindh.

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Through the listed applications Muhammad Hassan Abid, legal heir of the deceased surety, namely Seema Abid, seeks the return of the surety document deposited pursuant to order dated 29.06.2010, whereby applicants/accused (1) Habib Ali Asif son of Habib Edroos and (2) Muhammad Abid Hussain son of Muhammad Hussain were granted protective bail for a period of fifteen (15) days, subject to furnishing solvent surety in the sum of Rs.300,000/- each, with P.R. bonds in the like amount to the satisfaction of the Nazir of this Court. It was specifically stipulated that, in the event of their failure to surrender before the trial Court within the prescribed period, the protective bail would not be extended and the surety amount would stand forfeited.

2. The record reflects that, on 30.06.2010 Seema Abid wife of Muhammad Abid Hussain stood surety for the applicants/accused by depositing the Sub-Lease Deed of Shop No.120, "Lakhani Auto Plaza", Murad Khan Road, Karachi, and executed P.R. bonds in the like amount. Subsequently, the applicants/accused moved an application bearing M.A. No.3546/2010 seeking an extension of time on the ground that they had proceeded to Lahore, where they came to know about the registration of another FIR against them and, apprehending their arrest, did not surrender before the competent Court. The said application was dismissed vide order dated 13.07.2010. Consequently, in compliance with the said

order, the Nazir addressed a letter to the Sub-Registrar, Jamshed/Gulshan-e-Iqbal Town, vide endorsement dated 15.07.2010.

3. Learned counsel for the applicant/surety submits that the surety was furnished in the year 2010 and that the surety, Seema Abid, has since passed away; hence, the instant applications have been filed by her legal heirs seeking the return of the deposited surety document. He further contends that the surety bond was forfeited without adopting the procedure prescribed under Section 514, Cr.P.C., and without affording the applicant/surety an opportunity of being heard, which amounts to a harsh consequence. He argues that the forfeiture proceedings, having been initiated without due observance of the prescribed legal procedure, warrant a lenient consideration. He, however, submits that the legal heirs are willing to deposit 50% of the forfeited surety amount for the release and return of the deposited document.

4. Conversely, learned Additional Prosecutor General, Sindh, has no objection to the applications being allowed, provided that the applicant/legal heirs agree to deposit 50% of the forfeited surety amount.

5. I have heard learned counsel for the applicant/surety and learned Additional Prosecutor General, Sindh, and have perused the available record.

6. The record reflects that the surety was furnished subject to the specific condition that the amount would stand forfeited in the event of the applicants/accused failing to surrender before the competent Court within the stipulated period. Admittedly, the applicants/accused failed to comply with the said condition, and their application seeking an extension of time was dismissed vide order dated 13.07.2010. Consequently, the surety furnished by the deceased, Seema Abid stood forfeited. The question before this Court, therefore, is whether, in the peculiar circumstances of the case, the legal heirs may be permitted to secure the release of the deposited document upon payment of a portion of the forfeited amount.

7. Prima facie, the forfeiture of the surety bond without affording the surety an opportunity of being heard and without following the procedure

prescribed under Section 514, Cr.P.C., raises a question regarding compliance with the statutory requirements governing forfeiture of bonds and recovery of the penalty. Section 514, Cr.P.C., prescribes the procedure to be followed in such matters. The relevant provisions read as follows:

> ***"514. Procedure on forfeiture of bond.—***
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> ***(1) Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of a Magistrate of the first class, or when the bond is for appearance before a Court, to the satisfaction of such Court, that such bond has been forfeited, the Court shall record the grounds of such proof and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.***
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> ***(2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant for the attachment and sale of the movable property belonging to such person or his estate if he be dead.***
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> ***(3) Such warrant may be executed within the local limits of the jurisdiction of the Court which issued it; and it shall authorize the attachment and sale of any movable property belonging to such person without such limits when endorsed by the District Magistrate within the local limits of whose jurisdiction such property is found.***
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> ***(4) If such penalty is not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court which issued the warrant, to imprisonment in the civil jail for a term which may extend to six months.***
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> ***(5) The Court may at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.***
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> ***(6) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond.***
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> ***(7) When any person who has furnished security under section 107 or section 118 is convicted of an offence the commission of which constitutes a breach of the conditions of this bond, or of a bond executed in lieu of his bond under section 514-B, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety, or sureties, and, if such certified copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved***."

8. A perusal of the aforesaid provision, particularly subsections (1) and (5), reveals that the Court is required to record the grounds for forfeiture and may call upon the person bound by the bond to pay the penalty or show cause against its payment. The provision further empowers the Court, in its discretion, to remit any portion of the penalty and enforce payment in part only. In the present case, learned counsel for the applicant/surety contends that the surety bond was forfeited without adopting the procedure prescribed under Section 514, Cr.P.C., and without affording the surety an opportunity of being heard. Although the forfeiture proceedings date back to the year 2010, the original surety, Seema Abid, has since passed away, and her legal heirs have approached this Court for the return of the deposited Sub-Lease Deed. In addition, learned Additional Prosecutor General, Sindh, has expressed no objection to the release of the document upon deposit of 50% of the forfeited surety amount.

9. In view of the peculiar circumstances of the case, the considerable lapse of time, the subsequent demise of the original surety, the willingness of her legal heirs to deposit 50% of the forfeited amount, and the no-objection extended by learned Additional Prosecutor General, Sindh, I am inclined to exercise the discretion vested in this Court under Section 514(5), Cr.P.C., and take a lenient view in the matter.

10. Accordingly, the listed applications are allowed, subject to the condition that the legal heirs of the deceased surety shall deposit 50% of the forfeited surety amount, i.e., Rs.300,000/-, with the Nazir of this Court. Upon verification of the deposit and completion of the requisite formalities, the Nazir shall take necessary steps for the release and return of the deposited Sub-Lease Deed of Shop No.120, "Lakhani Auto Plaza", Murad Khan Road, Karachi, to the duly verified legal heirs of the deceased surety, in accordance with law.

11. The listed applications stand disposed of in the above terms.

JUDGE

M.Zeeshan