

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Qazi Faez Isa
Mr. Justice Jamal Khan Mandokhail

Criminal Petition No. 130-K of 2021

(Against the order dated 16.09.2021 of the High Court of Sindh Bench at Sukkur passed in Criminal Bail Application No. S-413/2021)

Rahib Ali and another.

.... *Petitioners*

Versus

The State.

... *Respondent*

For the Petitioner:

Mr. Nisar Ahmed Bhanbhro, ASC.
Ms. Abida Parveen Channar, AOR
a/w Petitioners.

For the Respondent:

Mr. Hussain Bux Baloch,
Additional Prosecutor General, Sindh.
Pias Ali, SHO.

Complainant:

Hazoor Bux, In-person.

Date of Hearing:

22.12.2021.

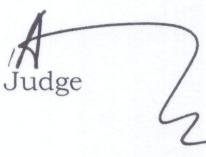
ORDER

Qazi Faez Isa, J. Through this petition, the petitioners seek pre-arrest bail in respect of FIR No. 02/2020 dated 26 August 2020 which was registered under sections 302, 311, 114, 337-H(ii), 148 and 149 of the Pakistan Penal Code at Police Station Hassan Shaheed, District Naushero Feroze. Pre-arrest bail was declined to the petitioners by the learned Judge of the High Court through the impugned order dated 16 September 2021. Notice was issued to the respondent on 21 October 2021 and the petitioners were admitted to *ad-interim* pre-arrest bail.

2. The learned counsel states that in respect of one deceased, namely, Tehmeez Ali, nine persons were nominated in the FIR and in the *challan* that was subsequently submitted both the petitioners were declared innocent. He further states that the role assigned to the petitioner No. 1 in the FIR was not one of effective firing and the petitioner No. 2 was given role of having instigated the crime. He further states that the complainant is inimical towards the petitioners and had roped them into the case due to *mala fide*.

3. The complainant is present and we have heard him and the learned Additional Prosecutor General, Sindh ('APG'). On our query as to whether the petitioners were declared innocent in the investigation report submitted by the police the learned APG confirms that they were. The learned APG could also not controvert the contention of the learned counsel for the petitioner with regard to his submission regarding the role assigned by the complainant to the petitioners. Under these circumstances, the *ad-interim* pre-arrest bail to the petitioners earlier granted *vide* order dated 21 October 2021 passed by this Court, is confirmed on the same terms and conditions and this petition is converted into an appeal and allowed. Needless to observe that any observation made hereinabove will not affect the case of either party.


Judge


Judge

Bench-I
Karachi:
22.12.2021
(M. Tauseef)

