

**THE HIGH COURT OF SINDH AT KARACHI**

No.: 09 /MIT-II/Crl. Bail Appln No. 2098/2022

Dated: 04-01-2023

To,

1. The learned District and Sessions Judges in all Districts of Sindh.
2. The Learned Presiding Officer, ATC-I, II, III, IV, V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX & XX, Karachi, ATC-I & II, Hyderabad, ATC Mirpurkhas, ATC, Shaheed Benazirabad, ATC Naushahro Feroze, ATC-I & II, Sukkur, ATC Ghotki, ATC Khairpur, ATC Larkana, ATC Kashmore & ATC Shikarpur
3. The Learned Presiding Officer, Accountability Court I, II, III, IV, V, VI VII, VIII, IX & X Karachi, Accountability Court I, II & III, Hyderabad & Accountability Court-I, II, III & IV, Sukkur
4. The Learned Judge, Spl. Court Custom Taxation & Anti-Smuggling, Karachi
5. The Learned Judge, Spl. Court (Offences in Banks) Sindh, Karachi
6. The Chairman, Drug Courts, Karachi
7. The Learned Presiding Officer, Intellectual Property Tribunal Sindh & Baluchistan
8. The Presiding Officer, Spl. Court of Removal of Encroachment, Karachi, Hyderabad & Sukkur
9. The Learned Judges, Spl. Court CNS I & II, Karachi
10. The Learned Special Judge Anti-Corruption (Central I & II), Karachi & Hyderabad
11. The Learned Special Judge Anti-Corruption (Provincial), Karachi, Hyderabad, Sukkur & Larkana

**SUBJECT: CRL. BAIL APPLICATION NO. 2098/2022.**

I am enclosing copy of order dated 22-12-2022 passed by this Hon'ble Court in the subject case for necessary compliance.

  
5/1/2023

**(Suhail Muhammad Laghari)**  
**Member Inspection Team-II**

**Enclosed as above.**

- Copy forwarded to the Assistant Registrar (Criminal Branch) for placing in Crl. Bail Application No. 2098/2022.

**IN THE HIGH COURT OF SINDH AT KARACHI**

**CR. BAIL APPLN No. 2098 of 2022**

Muhammad Sajid S/o Islamuddin.....Applicant

**VERSUS**

The State.....Respondent

FIR No. 180/2021

U/s 392/397/302 & 34 PPC

Police Station Sukhan, Karachi.

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03.01.23

**To,**

1. The learned MIT-II of this Court.
2. The Inspector General of Police, Sindh at Karachi.
3. *The Prosecutor General Sindh, Karachi.*

I am directed to forward herewith certify copy of Order dated:- 22.12.2022, (in Five pages) passed by this Court in the above matter, for information and compliance.

Receipt of this letter along with its enclosure may kindly be acknowledged.

Dated  
02.01.2023

**I.C. ASSISTANT REGISTRAR, CRIMINAL BR.**



**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
**Crl. Bail Application No. 2098 of 2022.**

Date	Order with signature of Judge
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For hearing of bail application.

22<sup>nd</sup> December 2022.

Mr. Shah Muhammad Zaman, advocate for the applicant.  
Mr. Saleem Akhtar Buriro, Addl. P.G. Sindh.

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Salahuddin Panhwar, J. Mr. Waqar Alam Abbasi, advocate present undertakes to file vakalatnama on behalf of complainant and claims memo of bail application with annexures, to which learned counsel for the applicant undertakes to provide the same during course of the day.

By order dated 09<sup>th</sup> December 2022 learned Prosecutor General Sindh was directed to constitute a committee comprising of competent officers/prosecutors including Investigation Officer not below the rank of SSP, who shall prepare a questionnaire with regard to interrogation as a guideline to the investigation officers. Pursuant to that learned Addl. P.G. Sindh submits statement of Worthy Prosecutor General Sindh, which speaks that Mr. Saleem Akhtar Buriro, learned Addl. P.G. Sindh has worked hard and he has taken pain while preparing interim report and guidelines with regard to interrogation. Being relevant same are reproduced herewith:-

"To,  
The Prosecutor General Sindh,  
Karachi.

**SUBJECT: PREPARATION OF INTERROGATION GUIDELINES.**

Ref. Inward # 0610 dated 03.11.2022, Court order in Bail Application No.2098/2022, Muhammad Sajjid v. The State.

Respected Sir,

I have honor to state, that having gone through the above mentioned subject, my humble opinion on the subject matter is as under:-

**ABSTRACT:**

"Developing the process and legal parameters for interrogation of

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The purpose of interrogation or interviewing an accused must be for the following purposeless namely;-

- i) The process of interrogation as to discoveries of articles, recoveries of the crime weapons, stolen properties, unearthing the dead bodies, rescuing the abductees as defined under articles of Qanoon-e-Shahadat Order 1984.
- ii) To discover the perpetrators, abettors, conspires with a view to obtain the evidence of any person supposed to have been directly or indirectly concerned in or prior to the offence, tender a pardon to such person on condition of his making a full and time disclosure of the whole of the circumstances within his knowledge relating to the offence and to every other person, concerned, whether, as principal or abettor in the commission theory.

(Sec. 337-338 PPC, Article 16 GQanoon-e-Shahadat Order 1984)

#### **NORMAL PRACTICE:**

The investigation police has some general printed patterns to interrogate the accused / suspect, consists upon common questions, regarding the particulars including name of spouses and family members etc.

That from keen observation of the format designed by the police in subject matter there find no question to the instant crime allegedly committed by the accused and moreover the said document has no legal reason to be used as a proof of a fact nor the same can be produced in evidence nether it can be benefitted for the court of law in our criminal justice system.

#### **PROBLEM**

Usually police get some sought of admissions or extra judicial confessions before them and satisfied themselves that the case has been solved, but that is not true approach of the investigation agency as it is not conclusive proof against the accused which can solely be based upon Conviction under Article 38 to 43 Qanoon-e-Shahadat Order 1984, neither the interrogation of the accused is helpful for the prosecution or courts.

The main problem in our investigations are that the questioning from accused or suspect is not a conclusive evidence that can be enough to forward an accused to a Judicial Magistrate under section 170 or 173 Cr.PC, it can be a corroborative evidence which should be coupled with or ocular, circumstantial, medical, forensic and other expert evidence under Article 7 (2) (b) Qanoon-e-Shahadat Order 1984.

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intention, knowledge, good or bad faith, negligence, rashness, ill-will or good will as to facilitate the Court of law to pass Correct sentence of the offence or that whether act/offence was accidental or unintentional as defined under article 60 Qanoon- e-Shahadat Order 1984, (as defined under articles 27 & 28 Qanoon-e- Shahadat Order 1984).

### INTERVIEWING THE ACCUSED/SUSPECT:

It is most important part of the investigation when a police officer may get clue and even corporeal evidence of the Commission of the offence, as the interrogation deposed that whether investigator have real culprits or an irrelevant person is arrested, as such it is necessary to mention that how come the suspect was arrested and his alleged connection with the crime, hence it is necessary that before the arrest or the interrogation, the police officer shall submit reason or sufficient grounds for arrest of the suspect.

That the interrogation of the accused should be recorded in CCTV camera at the police station investigation room, should be footage and has to be made necessary copies for the police challan and copy of said interrogation video be given in USB along with charge sheets and in the end of interrogation, the police officer shall mention a certificate that it is recorded by him or under his directions and the interrogation contains full and true account of the accused.

### QUESTIONER:

The except some general queries, the questioner from a suspect should be based upon the facts and the circumstances of each case, different questioner has to be designed on nature and definition of offences and to ask the suspect about i) whether he knows the complainant or witnesses, ii) defense of his involvement in the crime, iii) reason of his implication by the witnesses, iv) alibi if any? if he has, v) put question about source of acquiring properties, and also vi) put the criminal record of the accused or the criminal record of his family to him during said interrogations and asks for his livelihood, (subject to case of professional offender or narcotics / unlawful arms dealer, vii) Inquire source of acquiring illicit articles, viii) question tracing illicit assets. (narcotics, dacoity and illicit arms supply cases.

1) I.O should put the physical or oral evidence or clue for the arrest and involvement of the accused / suspect in the crime and ask for reply.

2) I.O. to put circumstantial evidence that became cause of his arrest in the crime.



said interrogation to the Judicial Magistrate concerned during recording confession of the accused.”

This Court has observed that most of the cases rest on interrogation reports as per prosecution but normally interrogations are not in writing or in specific *proforma*. At this juncture, it would be significant to mention that Article 40 of **Qanoon-e-Shahadat Order** provides that any circumstantial evidence comes on record during investigation is admissible under the law. In case of *Mst. Askar Jan and others v. Muhammad Daud and others* (2010 SCMR 1604), Honourable Apex Court observed in respect of Article 40, of Qanoon-e-Shahadat Order, 1984 to the extent that: “A perusal of above Article reveals firstly that it serves as a proviso to Articles 38 and 39 of the Order. Secondly, it is founded on the principle that if the statement or information of the accused amounts to confession or otherwise is supported by the discovery of a fact it may be presumed to be true and not to have been extracted. It comes into operation only (i) if and when certain facts are deposited to us discovered in consequences of information received from an accused person in police custody; and (ii) if the information relates distinctly to the fact discovered”.

Besides, Articles 132 and 133 of **Qanun-e-Shahadat Order, 1984**, provide mechanism of examination-in-chief, cross-examination and scope of re-examination. This Court has also observed that normally the concept of re-examination as provided in the book of statute is not in field and we have accepted the same as redundant, which practice negates the concept of justice. Examination-in-Chief is an opening statement by the prosecution and after cross-examination the concept of re-examination is closing statement by the prosecutor that normally can be longer than examination in Chief. It is also agitated by learned Addl. P.G. Sindh that normally courts are not permitting re-examinations and only specific questions are being allowed, that practice cannot be appreciated. As per Article 133(3), of **Qanun-e-Shahadat Order, 1984** “The re-examination shall be directed to the explanation of matters referred to in cross-examination; and if new matter is, by permission of the Court, introduced in re-examination, the adverse party may further cross-examine that matter”. In case of *Muhammad Shah v. The State* (2010 SCMR 1009), it was held by the Apex Court that: “It is important to note that all incriminating pieces of evidence, available on



*explain any circumstances appearing in evidence against him" which clearly demonstrate that not only the circumstances appearing in the examination-in-chief are put to the accused but the circumstances appearing in cross-examination or re-examination are also required to be put to the accused, if they are against him, because the evidence means examination-in-chief, cross-examination and re-examination, as provided under Article 132 read with Articles 2(c) and 71 of Qanun-e-Shahadat Order, 1984".*

Accordingly, Committee shall come forward in view of guidelines provided by Mr. Buriro and submit proformas of Interrogations report to all the Prosecutors, Investigation Officers for compliance, and learned MIT-II shall communicate this order to all the Courts having criminal jurisdiction that they shall liberally allow the prosecutors for re-examination to bring the truth on record while considering the same as closing statement on behalf of prosecutors strictly in accordance with the provisions of Article 132 & 133(3), of Qanun-e-Shahadat Order, 1984.

Being a part heard matter, to come up on 16<sup>th</sup> January 2023 for further proceedings. Meanwhile, IGP Sindh shall depute any responsible competent officer well acquainted with the investigation not below the rank of DIGP, who shall join the Prosecutor General in order to complete the exercise of preparation with regard to interrogation reports in different cases. This order shall be communicated to the IGP Sindh as well.

**Sd/-Salahuddin Panhwar**  
Judge

Certified to be true copy

*02/01/2023*  
I.C Assistant Registrar Crl. Branch  
CRL/BAIL/APPLN/NO/2098/2022

Dated: 02.01.2023

