

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

Criminal Bail Application No.1050 of 2020

Date	Order with Signature of the Judge
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1. For hearing of bail application.

Heard on	:	17.08.2020
Decided on	:	17.08.2020
For Applicants	:	Mr. Muhammad Ashraf Samoon, Advocate alongwith applicants/accused
For State	:	Ms. Rubina Qadir, D.P.G, Sindh.

Kausar Sultana Hussain, J.:- On dismissal of pre-arrest bail Application No.946 of 2020, by the learned trial Court, vide order dated 15.7.2020, the applicants Sikandar Hussain, Ali Muhammad, Ahmed Ali, Zangi @ Abdul Hakeem, Sahoo @ Dada, Habibullah and Haji Abbas have approached this Court, by filing instant bail application under Section 498 Cr.P.C for interim pre-arrest bail in case FIR No.53 of 2020, under Section 353, 147, 148, 149, 114, 506-(2) PPC and 61 & 62 of Irrigation Act, registered at P.S. Jatti.

Learned counsel for the applicants submitted that applicants are innocent and have falsely been implicated in this case by the complainant. He further submitted that there is inordinate delay of about two days in lodging the FIR; that neither such incident has taken place nor the applicants have illegally blocked Munarki; that the witnesses associated in the FIR are subordinate of the complainant, as such there is no chance of tempering with the prosecution case; that all the alleged offences fall under sections 353, 147, 148, 149 and 114 PPC are bailable except the offence fall under section 506(2) PPC; that sections 61 and 62 of Sindh Irrigation Act, 1879 are with fine of fifty rupees and 200/- (Rupees Two Hundred)

respectively or with imprisonment for a term which may extend to six months or with both. He further argued that applicants are regularly attending the trial court as well as this court and never misused the concession of pre-arrest bail. The learned counsel for the Applicants / Accused prayed for confirmation of the pre-arrest order dated 17.07.2020.

Conversely, learned Deputy Prosecutor General, Sindh opposed the grant of bail to the applicants and submits that the names of applicants are appearing in the FIR, hence they are not entitled for concession of extra ordinarily relief of pre-arrest bail.

Heard the Learned counsel for the parties and perused the record.

It is an admitted fact that FIR in this case has been lodged with the delay of 02 days' without any explanation. It is also an admitted fact in the present case that no any person was injured from either side and all the sections are bailable except section 506(2) PPC and other sections of Irrigation Act, 1879 are with fine or with imprisonment for a term which may extend to six months or with both.

2. It is not out of context to mention here that the object of bail is to secure the appearance of the accused person(s) at his/their trial by reasonable amount of bail. The object of bail is neither punitive nor preventive and therefore, deprivation of liberty must be considered a punishment, unless it may be required to ensure the presence of accused during trial. The punishment begins after conviction and not before it, as in criminal justice system every man is deemed to be innocent until duly found guilty.

It needs not to re-emphasize that the purpose of putting the un-convicted person(s) in custody is nothing but to secure their attendance at the trial. Even otherwise, life and liberty of a citizen is very precious and guaranteed by Article 4 of the Constitution of Islamic Republic of Pakistan, 1973, as has been observed by the Hon'ble Supreme Court of Pakistan in the case reported in PLD 1989 SC 585.

3. At bail stage, deeper appreciation of evidence and circumstances appearing in the case are not permitted and only tentative assessment is to be made, however, where accused satisfies the Court that there are reasonable grounds to believe that he is not guilty of such offence, then the Court must release him on bail as held in the case of *YAR MUHAMMAD V. THE STATE AND ANOTHER* (2004 YLR 2230).

4. Suffice it to say that on tentative assessment of the case, the case of the accused/applicants is one of further inquiry. It is settled law that in case of further inquiry, bail is to be granted as a matter of right and not by way of any concession or grace.

5. Keeping in view facts, circumstances of the case, the interim pre-arrest bail order dated 17.07.2020 is hereby confirmed on same terms and conditions. The instant criminal bail application stands disposed of.

6. It needs not to emphasize that observations made above are tentative in nature and the learned Trial Court shall not influence by such observations.

Above are the reasons for short order dated **17.08.2020.**