

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**  
**Cr. Bail. Appln. No.S – 522 of 2019**

Date	Order with Signature of Hon'ble Judge
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**For hearing of bail application**

- 1. For orders on office objection at flag 'A'
- 2. For hearing of bail application

**18.10.2019**

Mr. Farhan Ali Shaikh Advocate a/w Applicants  
Mr. Aftab Ahmed Shar, Additional PG for the State  
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**Aftab Ahmed Gorar, J**:- The applicants / accused Rehmat Ali and Tarique Hussain through instant bail application seek pre-arrest bail in Crime No.03 of 2019 registered at Police Station Gudpur for offences punishable under Sections 216-A, 212 and 406 PPC.

2. Precisely stated facts of the case as per FIR are that on 17.9.2019 SIP Ather Ali Mahar lodged the report at police station Gudpur that the present applicants being father and son, are acting as facilitators to the hardened criminals of the area and are using the SIM cards i.e. Nos. 03007090997 and 0303-9218244, as such on the day of incident he along with his subordinates were on patrolling when reached at Janoo-waroo Dhoru, where he received spy information that the applicants/accused Rehmat Ali and Tarique Hussain would provide arms, ammunitions and food to the hardened criminals of the area namely Nadeem and Jeand Jagirani at Atta Muhammad Jumani Chachar Pattan. On such information, he rushed to the pointed place and reached there at 1700 hours, where they saw and identified the present applicants/accused carrying weapons, bags containing bullets and food, due to mud the vehicle was parked at some distance and

they challenged the accused, on which the present applicants succeeded to escape from the scene of offence through the bank of River Indus, whereas the hardened criminals namely Nadeem and Jeand Jagirani also escaped by Boats, due to non-availability of Boats, the police party could not chase the criminals, hence on return such FIR was registered at Police Station to the above effect.

3. The applicants/accused approached the Court of learned Sessions Judge, Sukkur, where in the first instance they were granted interim pre-arrest bail, but subsequently the same was recalled and their bail application was dismissed by the Court of learned Additional Sessions Judge Pano Akil vide impugned order dated 26.9.2019, hence this bail application before this Court.

4. Learned counsel for the applicants contended that the applicants are innocent and have been falsely implicated in this case by the police due to non-fulfillment of their illegal demands, because the applicant No.1 Rehmat Ali was posted at the same police station, therefore, the SHO called and asked him for earning for him through illegal manners. He contended that all the Sections areailable except Section 406 PPC, which has wrongly applied by the police just to increase the gravity of the offence. He further contended that though the police party and the dacoits came face to face and the police challenged the dacoits, but even then the accused escaped from the place of incident and not a single fire was made from both the sides, which clearly shows that the story has been managed by the complainant just to involve the present applicants. He also contended that the case has been challaned and is pending trial, the applicants are facing the same and they do not want to remain fugitive from law, if the applicants are sent to jail no useful purpose would be served. He lastly prayed that interim pre-arrest bail

granted to the applicants may be confirmed on same terms and conditions, as according to him their case is calling for further enquiry.

5. Learned Additional PG for the State has opposed for grant of bail by stating that the applicants have been rightly involved in the present case as they were actively facilitating the hardened criminals in the area and offence which they have committed is affecting the society at large.

6. I have considered the above arguments of learned counsel for the applicants and learned Additional PG for the State and perused the record. Admittedly, the complainant had prior information regarding the availability of the applicant that they would provide arms, ammunitions and food to the hardened criminals in the Katcha area, therefore, they went there fully equipped with weapons and saw the present applicants as well as the hardened criminals while receiving the arms, ammunitions and food and on challenge of the police party, the present applicants escaped through the Bank of Indus River, whereas, the hardened criminals made escape by way of Boats. The story as stated in the FIR is unbelievable, though the police and hardened criminals including the present applicants came face to face each other, but even then not a single fire has been made from either side. All the Sections are bailable exception Section 406 PPC, which does not fall within the prohibitory clause of Section 497 Cr.P.C. Furthermore, the case has been challaned and the applicants are facing trial, hence in such circumstances, if the applicants are remanded / sent to jail, no useful purpose would be served. In such circumstances, the case of the applicants/accused calls for further enquiry.

7. In view of above, the applicants have made out a good case for grant of pre-arrest bail. The interim pre-arrest bail granted to the applicants/accused by this Court on **04.10.2019** is confirmed on same terms

and conditions. The applicants / accused are directed to face their trial regularly. The observations made herein above are tentative in nature and would not affect the case of either party at trial.

8. Instant Cr. Bail Application is disposed of in above terms.

Judge

ARBROHI