

ORDER SHEET
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
 Crl. Bail Application No.S-442 of 2022
 (Ali Hassan & others Vs. The State)

For hearing of Bail Application.

15-11-2023.

Mr. Mumtaz Ali Jahangir Lashari, advocate for the applicants.
 M/s Mehfooz Ahmed Awan and Farhan Ali Shaikh, advocates for the complainant.
 Mr. Shafi Muhammad Mahar, Deputy P.G for the State.
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Irshad Ali Shah, J; It is alleged that the applicants with rest of the culprits after having formed an unlawful assembly in prosecution of its common object, caused iron rod and butt blows to Qurban Ali and Imtiaz Ali, on receipt of such injuries Qurban Ali died, for that the present case was registered.

2. On having been refused bail by learned Ist Additional Sessions Judge (MCTC), Ghotki, the applicants have sought for the same from this Court by way of instant application u/s 498-A Cr.P.C.

3. It is contended by learned counsel for the applicants that the applicants being innocent have been involved in this case by the complainant party in order to satisfy its dispute with him over matrimonial affairs; the FIR of the incident has been lodged with delay of about two days; there is general allegation of the incident; therefore, the applicants are entitled to be admitted to pre-arrest bail on point of further inquiry and malafide. In support of his contention he relied upon case of *Sikandar Hayat Vs. The State and another* (2022 SCMR 198).

4. Learned Deputy P.G for the State and learned counsel for the complainant have opposed to grant of pre-arrest bail to the applicants by contending that they are named in FIR with role of causing iron rod and butt blows to the deceased and PW Imtiaz Ali.

5. Heard arguments and perused the record.

5. The FIR of the incident has been lodged with delay of about two days; such delay having not been explained plausibly could not be over looked; the role attributed to the applicants is general in nature; on investigation one of the applicant named Ali Hassan has been let of by the police by finding him to be innocent; co-accused Mir Muhammad has already been admitted to post arrest bail by learned trial Court; the case has finally been challaned and there is no allegation of misusing the concession of interim pre-arrest bail on the part of the applicants. In these circumstances a case for grant of pre-arrest bail in favour of the applicants on point of further inquiry and malafide obviously is made out.

6. In case of *Meeran Bux vs. The State and others* (PLD 1989 S.C 347), it has been held by Hon'ble Apex Court that;

".....Since the appellant remained on bail for more than one year before the bail was cancelled by the High Court without abusing the concession of bail in any manner and the reason given by the learned Session Judge for granting pre-arrest bail that the injury was on non-vital part of the body of 'the deceased i.e. thigh and was simple, was not without foundation, we would, therefore, in the circumstances, set aside the impugned order of the High Court and restore the order of the Sessions Judge granting the pre-arrest bail."

7. In view of above, the interim pre-arrest bail already granted to the applicants is confirmed on the same terms and conditions.

8. The instant bail application is disposed of accordingly.

Judge