

ORDER SHEET
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
 Crl. Bail Application No.S-535 of 2022
(Sarfraz Ali Bhatti & others Vs. The State)

1. For Orders on office objection.
2. For hearing of Bail Application.

20-11-2023.

Syed Jaffer Ali Shah advocate for the applicants.
 Mr. Allah Warayo Soomro, advocate for the complainant.
 Mr. Zulfiqar Ali Jatoi, Additional 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 their common object, beside committing murder of Bashir Ahmed caused fire shots injuries to PWs Liaquat and Mst. Amiran with intention to commit their murder and then went away by making aerial firing to create harassment, for that the present case was registered.

2. On having been refused bail by learned Ist Additional Sessions Judge (MCTC), Khairpur, 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 landed property; FIR has lodged with delay of about 10 hours; there is general allegation against the applicants. Moreso, all of them excepting Ali Madad and Ali Khan have been let of by the police finding them to be innocent and there is counter version of the incident; therefore, the applicants are entitled to be admitted to pre-arrest bail on point of further inquiry and malafide.

4. Learned Additional 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 and are responsible for commission of incident vicariously.

5. Heard arguments and perused the record.

6. The FIR of the incident has been lodged with delay of about 10 hours. On investigation, all the applicants excepting Ali Madad and Ali Khan have been let off by the police while submitting final challan of the case. There is counter version of the incident, which party is aggressor and which party is aggressed upon, it requires determination at trial. There is dispute between the parties over landed property. The applicants have joined the trial and there is no allegation of misusing the concession of interim pre-arrest bail on their part. 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.

7. 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."

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

9. The instant bail application is disposed of accordingly.

Judge