

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.324 of 2025

Applicants : i. Hidayatullah Khan
ii. Irfan Khan
iii. Nadir Zaman
iv. Waqas
through Mr. Farrukh Sharif, Advocate

Respondent : The State
through Ms. Rahat Ahsan, Addl. P.G. a/w
PI Muhammad Siddique & PI Noor Zaman

For Complainant: Present in person.

Date of hearing : 18.02.2025

Date of order : 18.02.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicants/accused seek pre-arrest bail in Crime No.57/2025 for the offence under Sections 354/452/34 PPC registered at PS Docks, after their bail plea has been declined by the learned Additional Sessions Judge-X, Karachi West vide order dated 31.01.2025.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Per learned counsel for the applicants, the applicants are innocent and have falsely been implicated in this case; that in fact, the complainant is a cheater and she takes loan from different persons and when they demand their money back, she uses to torn her clothes and implicate them in the fake cases; that Section 354-A is not applicable in this case; that no such incident has taken place, in fact, the complainant with malafide intention has involved the applicants in this case. Lastly, he prays for confirmation of bail to the applicants.

4. On the other hand, learned Addl. P.G. submits that the police report under Section 173 Cr.P.C. was filed wherein Section

354-A PPC has been added by the trial Court and the punishment provided by law for this offence is life or death. She submits that name of the applicants transpire in the FIR with specific role, as such, they are not entitled for bail. Complainant also present in Court refuted the allegation levelled by the applicants and submits that the applicants entered into the house and committed the alleged offence.

5. Heard arguments and perused the record.

6. Admittedly, the name of the applicants transpires in the FIR with specific role that on the day of incident, they entered into the house of complainant and beat her and family members, thereafter, they torn the clothes and exposed herself before the accused persons. PI Noor Zaman present in Court submits that police report has been filed wherein it is mentioned that I.O. of the case collected two shirts so also confirms that Section 354-A PPC has been added. So far as plea taken by learned counsel for the applicants that complainant is a cheater and used to take loan from different people and when they demand their money back, she torn her clothes and lodge false cases, when he was asked to provide list of FIRs registered by the complainant earlier to believe that she is habitual offender, he had no information. Further, the plea taken by learned counsel for the applicants that Section 354-A PPC is not applicable in this case, the same has no worth as the lady was exposed in front of four accused persons, as such, the offence falls within the prohibitory clause. At bail stage, only tentative assessment is to be made. The version of the complainant is fully supported by the other PWs. No ill-will or malafide or enmity has been pleaded by the learned counsel for the applicants for false implication of the applicants in this case.

7. Further, the concession of pre-arrest bail cannot be allowed to an accused person unless the Court feels satisfied with the seriousness of the accused person's assertion regarding his intended arrest being actuated by *mala fide* on the part of the complainant party or the local police but not a word about this crucial aspect of the matter is found as no *mala fide* is made on the part of the complainant to believe that the applicant/accused has been implicated in this case falsely. In this context, the reliance is placed to the case of **'Rana Abdul Khaliq v. The**

STATE and others' [2019 SCMR 1129]. In addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual course of law, arrest in cognizable cases; protection to the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*, it is not a substitute for post-arrest bail in every run of the mill criminal case as it seriously hampers the course of the investigation.

8. In view of the above, the instant bail application is **dismissed**. Resultantly, the interim pre-arrest bail granted to the applicants/accused vide order dated 04.02.2025 is hereby recalled.

9. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant/accused on merits.

JUDGE

Kamran/PA