

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.3004 of 2024

Applicants : 1. Abdul Hameed S/o Shafi Muhammad
2. Shahzaib S/o Shafi Muhammad
Present on interim pre-arrest bail.

Complainant : Muhammad Aslam S/o Muhammad Salim
through Mr. Agha Asghar Ali, Advocate

Respondent : The State
Through Mr. Muhammad Anwar Mahar,
DDPP a/w I.O./SIP Altaf Khan of PS Pak
Colony

Date of hearing : 17.02.2025

Date of order : 17.02.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicants/accused seek pre-arrest bail in Crime No.272/2024 for the offence under Sections 324/377-A(i)/34 PPC registered at PS Pak Colony, after their bail plea has been declined by the learned Additional District & Sessions Judge-II, Karachi West vide order dated 04.07.2024.

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. Applicants are present on interim pre-arrest bail. Ms. Sana, Advocate holding brief for Mr. Manzoor Elahi, Advocate for the Applicant, requests for adjournment on the ground that latter is out of station. Such request is declined as after grant of pre-arrest bail on 30.12.2024, the matter is pending without any progress; however, applicants were directed to proceed with the matter but they refused to proceed the same. Learned counsel for the complainant requests that learned DDPP may be directed to proceed with the matter. Accordingly, learned DDPP has read over the FIR and pointed out that after grant of bail by the learned trial Court, the applicants did not attend the trial and remain fugitive from the law; as such, their bail was dismissed by the learned trial

Court. Learned counsel for the complainant files Objections alongwith photos, which show that the deep cutting was made in the body of injured/complainant Muhammad Saleem.

4. I have perused the FIR which reflects that there was a minor dispute over the children; as such, both the applicants entered into the house of complainant/injured Muhammad Saleem and started beating him. Both the accused caught hold him and cut his neck from the blade, resultantly, bleeding was started from his body. Photos produced by the learned counsel for the complainant also reflect that there are many stitches on the body of the complainant and the offence comes under Section 337-F(ii) PPC. Police has also applied Section 324 PPC which shows that accused persons repeatedly cut the body with blade on different parts. At bail stage, only tentative assessment is to be made and deeper appreciation is not permissible. The ocular evidence finds support from the medical evidence. Sufficient material is available on record to connect the present applicants with the commission of offence.

5. 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.

6. In view of the above, the instant bail application is **dismissed**. Resultantly, the interim pre-arrest bail granted to the applicant/accused vide order dated 30.12.2024 is hereby recalled.

7. 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 applicants/accused on merits.

JUDGE

Kamran/PA