

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Bail Appln. No. S-209 of 2024
Criminal Bail Appln. No. S-214 of 2024

Applicant
(In Cr. Bail. Appln. No. S-209 / 2024)

Shahmore son of Ali Bux Khoso,

Through Mr. Abdul Ghani Bijarani,
advocate

Applicant
(In Cr. Bail. Appln. No. S-214 / 2024)

Muhammad Ramzan Malik s/o Buxio
Khan Malik

Through Mr. Amanullah Luhar,
advocate

The State

Mr. Aitbar Ali Bullo, D.P.G for the
State

Date of hearing: 20-05-2024

Date of Order: 20-05-2024

SHAMSUDDIN ABBASI, J.- Through this single order, I would like to dispose of two criminal bail applications filed by the applicants/accused for grant of post arrest-bails arising out of same crime bearing No. 21/2024 of P.S. B-Section Kandhkot, for the offence U/S 399, 402 P.P.C, after rejection of their bail plea by the learned trial court vide two separate orders dated 27.03.2024 and 06.04.2024.

2. The facts of the prosecution case are that on 23.02.2024 complainant A.S.I. Shah Muhammad was on duty along with his staff, he left Police Station for patrolling, after patrolling from different places, when he reached at Khair-Shah-Kandhkot link road, whereby they noticed that stone were lying on the road, from the western side of road, six persons emerged, who were accused Azad, Javed, Mukhtiar, all by caste Sabzoi, with T.T pistols, Muhammad Ramzan Malilk and two unknown persons with guns, were standing there with intention to commit some offence, the complainant party started to chase them but on seeing police party, the accused persons succeeded to escape good by taking advantage of dense jungle and minors, thereafter the complainant returned back to P.S, where he lodged the F.I.R as stated above.

3. Learned counsel for the applicants/accused has contended that applicants/accused are innocent and they have falsely implicated in this case;

that no any overt act has been assigned to the applicants only mere presence has been shown for committing the offence; that nothing incriminating material has been recovered from the possession of applicants/accused; that there is no any criminal record of the applicants as such the case of applicants calls for further inquiry in terms of Section 497 Cr.P.C. He has, therefore, prayed for grant of post-arrest bail to the applicants/accused.

4. On the other hand, learned Deputy Prosecutor General has vehemently opposed for grant of bail on the ground that applicants are nominated in heinous offence, therefore, they are not entitled for any leniency and prayed for dismissal of their bail applications.

5. Admittedly, as per prosecution case the police party proceeded to the place of incident on advance information but neither they have joined any private person in proceedings nor any person from the public came forward to complain that he has been robbed. Furthermore, there is nothing on record to show that the applicants accused belong to gang of thieves or dacoits, even no criminal record of applicants has been produced. The offence for which the applicant are charged, does not come within the prohibitory clause of Section 497 Cr.P.C except Section 399 P.P.C, which too requires evidence to prove intention and preparation for dacoity. All the P.Ws are police personals. I am of the considered view that the case of applicants requires further inquiry in terms of Section 497(2) Cr.P.C.

6. From the tentative assessment of the material available on record, it appears that the applicants/accused have made out a good prima facie case of further enquiry, therefore, they are entitled for grant of post-arrest bail.

7. Accordingly, both bail applications are hereby allowed. Applicants/accused are admitted on post-arrest bail subject to their furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty thousand) for each accused in both bail applications and P.R bond in the like amount to the satisfaction of learned trial court.

8. 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 either party at trial.

J U D G E

Abdul Salam/P.A