

(79)

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA  
Crl Bail Appln No S-304 of 2021

Date \_\_\_\_\_ Order with signature of Hon'ble Judge \_\_\_\_\_

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

Mr. Mohammad Afzal Jagirani, advocate for the applicants  
Mr. Ali Anwar Kandhro, Additional Prosecutor General  
Mr. Ayaz Ahmed Faras, advocate for the complainant

Date of Hearing : 06.10.2021  
Date of decision : 15.10.2021.

ORDER

Omar Sial, J.- Pir Jan Bangwar, Ali Jan Bangwar and Jamil Bangwar have all sought pre-arrest bail in Crime No.55 of 2021 registered under sections 337-A(i), 337-A(ii), 337-F(i), 337-F(v), 337-L(ii), 147, 148 and 149, P.P.C at the Buxapur police station. Earlier, their applications seeking pre-arrest bail were dismissed by the Additional Sessions Judge Kashmore on 28.06.2021.

2. FIR was registered on 11.06.2021 by Saeen Bux Bangwar. He recorded that he had a dispute with Pir Jan Bangwar and that he had registered an earlier case against Pir Jan and others. The accused would ask him to withdraw the case or face dire consequences. On 05.06.2021, the complainant with his brother Sadruddin and his nephews Momin and Riaz Ahmed were travelling on a tractor when 10 persons on three motorcycles intercepted them. All of them were identified by the complainant party, these included the three applicants who were carrying lathis. According to the complainant, the three applicants hit Sadruddin with their lathis, who was also beaten by the others with their lathis. Sadruddin was injured.

3. I have heard the learned counsels for the applicants as well as the complainant and the learned Additional Prosecutor General. My observations and findings are as follows.

4. There is a delay of 6 days in the lodging of the FIR which is unexplained at the moment. While its impact on the prosecution case will

be determined at trial, keeping in view the animosity between the parties, deliberations and consultations before the lodging of the FIR and *malafide* on the part of the complainant cannot be conclusively ruled out at this stage. I also find it odd that the complainant who was the main person with whom the accused had an axe to grind was left unscratched in the entire episode and that he with such precision has recorded the names of the accused together with their parentage, weapons carried by each and who hit who where.

5 The injuries sustained by the complainant party carry a potential sentence of up to five years and therefore fall within the non-prohibitory clause of section 497, Cr.P.C. Keeping the principle of **Tariq Bashir & five others v. The State, PLD 1995 SC 34**, as there are no exceptional and extraordinary circumstances in the present case, I am inclined to not decline their plea for bail.

6 In view of the above, the interim pre-arrest bail granted to the applicants earlier is confirmed on the same terms and conditions. The applicants are, however, directed to co-operate with the investigating officer of the case and in the event they fail to do so, the investigating officer may move the requisite application for the cancellation of bail.

  
15/10/21  
JUDGE

*amended by me*  
*Jalil*  
*15/10/21*