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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.
Cr. Bail Appln. No. S- 179 of 2022,

Date	Order with signature of Hon'ble Judge
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1. For orders on office objection as flag A.
2. For hearing of bail application.

27.5.2022.

Mr. Ali Abbas Kabooro, advocate for the applicants alongwith applicants on bail.

Mr. Ali Anwar Kandhro, Addl. P.G.

O R D E R

MUHAMMAD SALEEM JESSAR-J.:-Through this application, applicants Karam @ Kirir and Imran @ Imran Ali seek pre arrest bail in Crime No. 16 of 2021 registered with P.S Sita Road U/ S 381-A PPC.

In compliance of earlier order learned counsel for the applicant submits the copies of memo of complaint No.09 of 2022 filed by wife of the brother of applicant Muhammad Karam Khan alongwith order dated 08.03.2022 and other documents including order dated 09.5.2022 of District Complaint Cell Dadu, taken on record.

Learned counsel submits that FIR is delayed for about 23 days and incident is occurred in odd hours of night, therefore, false implication of the applicant can not be ruled out. He submits that the applicant is inimical towards applicants as he had illegally dispossessed Mst.Saeeda D/O Hamzo and wife of Muhammad Kalhoro, the brother of applicant Karam, who filed Criminal Complaint No.09 of 2022 against him on 12.02.2022 which on undertaking of the accused/complainant of this case was disposed of as withdrawn through order dated 08.3.2022. He, therefore, submits that after disposal of the said complaint the complainant has got registered instant case himself to take revenge of earlier litigation. He further submits that case of prosecution is of two versions, hence requires further enquiry. In support of his contentions he places reliance on the case reported as Muhammad Tanveer v. The State (PLD S.C 733), Nazeer Ahmad v. The State (2003 Cr.LJ 501), Muhammad shahzad v. The State (2006 MLD 689), Naseem Abbas v. The State another (2017 P.Cr.L.J Note 176), Jannat gul v. The State and another (2017 YLR Note 95) and Muhammad Khalid v. The State (2004 Cr.LJ 1017).

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Learned Addl. P.G appearing for the State submits that the offence with which applicants have been charged carries maximum punishment upto seven years, therefore, he does not oppose the application.

Complainant present in person opposes bail application on the ground that applicants are real culprits and had stolen away water succession machine from his lands, therefore, they may not be granted bail.

Heard arguments and perused record. Admittedly the incident is said to have taken place on 31.01.2022 at 11.00 p.m (night) and FIR was lodged on 23.02.2022 with delay of about 23 days but no plausible explanation has been furnished by the prosecution for such and inordinate delay. The delay in criminal cases has always been held by the superior Courts to be fatal for the prosecution. Moreover there is recorded enmity between the parties which is sufficient ground for holding that the complainant has not come with his clean hands and thus malafide on the part of complainant/ prosecution is available on record.

In view of above, I am of the opinion that basic ingredients for grant of pre arrest bail as has been enshrined by the Hon'ble Supreme Court of Pakistan in case of Rana Muhammad Arshad v. Muhammad Rafique and another (PLD 2009 S.C 427) are fully attracted in this case therefore, case against applicants requires further enquiry. Consequently instant bail application is allowed. Interim pre arrest bail granted to the applicants on 07.4.2022 is confirmed on the same terms and conditions.

JUDGE

shabir