

**ORDER SHEET**

**IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANO**

**Cr. Bail Application No.3- 529 of 2023**

35

**Applicant(s):**

Ali Akbar, Ahsan Ali, Mohammad Yasin & Yasin, Babar & Nadir Hussain, Ghulam Sarwar, Irfan & Irfan Ali, Shahid, Abdul Hameed, Muhammad Salah and Ilahi Bux through Mr. Gulshan R. Dayo, Advocate.

**The State:**

Through Mr. Ali Anwar Kandhro, Additional Prosecutor General, Sindh.

**Cr. Bail Application No.3- 535 of 2023**

**Applicant(s):**

Hazar Khan, Rashid Ali, Altaf Hussain, Muhammad Ishaque and Raja through Mr. Azhar Hussain Abbasi, Advocate.

**The State:**

Through Mr. Ali Anwar Kandhro, Additional Prosecutor General, Sindh.

**Cr. Bail Application No.3- 549 of 2023**

**Applicant(s):**

Aijaz Ahmed, Wajid Ali, Abdul Majeed and Khadim Hussain, through Mr. Azhar Hussain Abbasi, Advocate.

**The State:**

Through Mr. Ali Anwar Kandhro, Additional Prosecutor General, Sindh.

**Date of hearing:**

16.10.2023.

**Date of order:**

16.10.2023.

**ORDER**

**Muhammad Saleem Jettar-J.** By means of this single Order I intend to dispose of three bail applications i.e. Cr.B.A.Nos.5-529, 535 and 549 PPC, whereby the applicants/accused have sought their admission on pre-arrest bail. Since Cr.B.A.No.5-535 and 549 of 2023, are arising out of crime No.82/2023, for the offence under section 504, 324, 148, 149 337-H(ii), 114 PPC while Cr. B. A.No.5- 529 of 2023 is counter F.I.R bearing Crime No.83 of 2023, for offence under section 324,337-A(i), F(i), 337-H(ii), 506/2, 114, 148, 149 PPC, both cases are registered with police station Staurt Ganj, (District



Shikarpur). Prior to this applicants have approached the first forum where they were admitted to interim pre-arrest bail however, later on by order dated 11.09.2023 their bail applications were dismissed giving rise to file instant applications.

37

2. The facts of the case(s) are mentioned in F.I.R, copy whereof has been attached with the memo of bail applications, hence need not to be reproduced here again.

3. Learned counsel for the applicants contended that they have falsely been implicated in the present case by the complainant party with malafide intention and ulterior motive; that there is delay of three days in lodging of FIR, for which no plausible explanation has been furnished by the prosecution; that there is counter version of the case as both the parties have lodged cases against each other for the same incident; that the alleged offence does not come within the prohibitory clause of section 497 Cr.PC, as such they prayed for confirmation of interim pre arrest bail.

4. Learned Additional Prosecutor General for the State did not oppose the confirmation of interim pre-arrest bail.

5. Since both the parties are complainant and accused to each other therefore, they raises no objection for grant of bail applications filed by either side. Learned counsel for the applicants from both sides while adopting instructions of their respective parties submit that they have no objection for grant of bail applications.

6. Since the FIRs are delayed for three days for which no plausible explanation has been furnished by the prosecution. There are counter cases of both the parties against each other for the same incident. All the injuries appear to be punishable up-to 5 years and do not fall within the prohibitory clause of Section 497 Cr.P.C. Hon'ble Supreme Court in case of *Muhammad*

"In cases of this nature, not falling within the prohibition contained in section 497, Cr.P.C., invariably grant of bail is refused on flimsy grounds. This practice should come to an end because the public, particularly accused persons charged for such offences are unnecessarily burdened with extra expenditure and this Court is heavily taxed because leave petitions in hundreds are piling up in this Court and the diary of the Court is congested with such like petitions."

7. In these circumstances, it is to be seen after recording the evidence that which party was aggressor. Deeper appreciation of evidence is not permissible at the stage of bail and the same is to be decided tentatively. From the tentative assessment of material available on record, it appears that the applicants/accused have made out their case for grant of pre-arrest bail. In view of above legal cum factual position of the record as well as no objection extended by the complainant/injured as well as their respective counsels the case against the applicants require further inquiry within the meaning of subsection (2) to section 497 Cr.PC. Accordingly, captioned criminal bail applications are hereby allowed. Consequently, ad-interim pre-arrest bail earlier granted to the applicants vide orders dated 18.09.203, 21.09.2023 and 28.09.2023, are hereby confirmed on same terms and conditions.

Office to place copy of order in all connected files.

**JUDGE**