

1 21

ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANO

1st. Cr. Bail Application No. S- 560 of 2023

Applicant(s):

Muhammad Aslam, Muhammad Azam,
Abdul Khalique, Naveed and Nazeer all by
caste Lakhair through Mr. Abdul Rasheed
Bughio, Advocate.

The State:

Through Mr. Ali Anwar Kandhro,
Additional Prosecutor General.

Complainant:

Manzoor Ali, in person.

Date of hearing:

13.11.2023

Date of order:

13.11.2023

ORDER

Muhammad Saleem Jessar-J. Through this bail application, the applicants have prayed for their admission on pre-arrest bail in crime No.12/2023, registered at Police Station Nau Goth, District Dadu, for offence under sections 452,506/2,337-A(i), F(i), 147,148,149 and 504 PPC. Prior to this, bail application No.2146/ 2023, was filed by the applicants before the Court of Sessions Judge, which subsequently was assigned to Additional Sessions Judge, Mehar, where after hearing the parties same was dismissed vide order 25.09.2023, hence; this bail application has been maintained.

2. The facts of the case are mentioned in FIR, copy whereof has been attached with the memo of bail application, hence need not to be reproduced here again.

3. Learned counsel submits that applicants after furnishing surety before this Court have joined the trial proceedings before the court of Civil Judge/Judicial Magistrate-1 Mehar, in *Cr. Case No. Nil re: The State V. Muhammad Aslam Lakhair and others*. In support of his contention he places a copy of case diary dated 10.11.2023 under the cover of his statement dated 13.11.2023, taken on record. He further submits that infact there is dispute between the parties over residential house therefore, complainant along-with his companion attacked upon applicants/accused in which incident one of the applicant namely Naveed Ali sustained injuries and as such the applicant's party has also lodged FIR bearing No.13 of 2023, registered at police station Nau Goth for offence under section 452,506/2, 337-A (i), F(i),147,148, 149, 504 PPC.

4. Learned Additional Prosecutor General for the State after going through the record does not oppose the bail application.

5. The complainant present in person opposed the bail application.

6. Heard arguments of learned counsel for the applicant and the complainant as well learned A.P.G and perused the record.

7. As per statement of I.O, who is also present in court today, no final medical certificate has been issued therefore, he has not submitted final challan however, learned counsel for applicant submits that final medico legal certificate bearing No.T.PLM/MLC 815 dated 27.08.2023, issued in favour of injured PW Mst. Zulekhan on 26.09.2023 reveals the injury allegedly sustained by her has been declared Shajjah-i-Khafifa, punishable under section 337A(i) PPC and is bailable, taken on record. Since remaining injuries are on non vital part of the body of injured PW, besides are carrying maximum punishment up to seven years hence does not exceed the limits of prohibitory clause of section 497 Cr.PC. The case is being tried by the court of Civil Judge/Judicial Magistrate where, after recording evidence of the prosecution witnesses, if prosecution may succeed to prove its charge against the applicants, even then punishment of more than three years cannot be visualized. Learned APG has no objection; however, complainant present in person opposes the bail application. In the circumstances and in view of the dicta laid down by the Apex courts in the case of *Muhammad Tanveer versus The State and another* (PLD 2017 SC-733), wherein Hon'ble Supreme Court of Pakistan has held as under:-

"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."

8. The case against applicants require further inquiry. Accordingly, interim pre-arrest bail earlier granted to the applicants vide order dated 03.10.2023, is hereby confirmed on same terms and conditions.

JUDGE