

173

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.
Cr. Bail Appln. No. S- 557 of 2023.

Date of hearing

Order with signature of Judge.

1. For orders on office objection as flag A.
2. For hearing of bail application.

Applicant

(Manzoor Sial & others):

Through Mr. Hamid Ali J. Chandio, advocate a/w
applicant (on bail).

The State

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

Date of hearing

: 18.01.2024.

ORDER.

MUHAMMAD SALEEM JESSAR:- Through instant bail application, applicants seek their admission on pre arrest bail in Crime No 13 of 2023 of P.S Naun Goth under Sections 324, 452, 147, 148, 149, 504, 337-A(i), 337-F(i) PPC. Case has been challaned by the police which is now pending for trial before the Court of 1st Additional Sessions Judge, Mehar (vide Sessions Case No Nil of 2023 re: State v. Manzoor Sial and others. The applicants filed bail application before the Court of Sessions which was assigned to Additional Sessions Judge- 1, Mehar who after hearing the parties has declined the prayer so made, hence instant bail application has been maintained.

2. The facts of the prosecution are already mentioned in FIR as well as memo of bail application therefore, the same are not required to be repeated here.

3. Learned counsel submits that applicant Manzoor is alleged to have caused hatchet below to Naveed on his head but the injury so attributed to him has been declared by the Medico Legal Officer to be Shajah e Khafifa which is punishable under Section 337-A(i) PPC. Whereas remaining accused have been assigned general role, therefore, case against them requires further

enquiry. In support of his contentions, he places reliance on the case of Dildar Ahmed v. The state (2022 SCMR 264) 170

4. Learned Addl. P.G submits that in the FIR no name of Mst. Parveen is mentioned as eye witness or injured; however, the police diary dated 30.8.2023 reflects that she was also injured by accused Manzoor and others, therefore, she died unnatural death. He further submits that in their 161 Cr.P.C statements all the P.Ws have assigned general role against all the accused, hence he has no objection for grant of bail application. In support of his contentions he places reliance on the case of Khalil Ahmed Soomro and others v. The State (PLD 2017 S.C 730).

5. Complainant was present before the Court on the last date and sought time to bring his counsel. However, today he is not in attendance nor his counsel is present to represent him. Thus they have chosen to remain absent, which shows that they are reluctant to pursue their case.

6. I have heard learned counsel for the applicants and Addl. P.G for the State as well as gone through the material brought on record.

7. No doubt the applicants are nominated in the FIR; however, role attributed to them is not in consonance with the medical evidence. In the FIR name of Mst. Parveen was not mentioned either as witness, injured or deceased and even no medical evidence has been brought on record by the prosecution to support the version introduced by the police during investigation vide their case diary dated 30.8.2023. Moreover, P.Ws who too have been sworn to be injured of the case have given different version to the extent of applicant Manzoor in their 161 Cr.P.C statements. Such behavior and conduct on the part of the prosecution while discharging its legal duties casted serious doubt into the veracity of prosecution allegation which prima facie entitle the applicants to the concession of bail. Besides the case has been challaned which is now pending trial before the Court having jurisdiction and is fixed for

framing of charge on 22.01.2024. No complaint with regard to misuse of the concession extended to them has been reported.

8. In the circumstances and in view of dicta laid down by learned apex Court in the reported cases of Dildar Ahmed (supra) and Khalil Ahmed (supra), I am of the considered view that applicants have successfully made out good prima facie case for their admission to pre arrest bail within meaning of subsection (2) of Section 497 Cr.P.C. Consequently, instant bail application is allowed. Interim pre arrest bail granted to the applicants on 02.10.2023 is hereby confirmed on the same terms and conditions.

9. Trial Court shall not be influenced by the observation made herein above and shall not prejudice the case of either side at the trial.


JUDGE