

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.

Cr.Bail.Appl.No.S- 685 of 2018

Date of hearing: 22.01.2019.

Date of order: 22.01.2019.

Applicants are present on interim pre-arrest bail.
Mr. Muhammad Ayoub Kassar, Advocate for applicants.
Ms. Sobia Bhatti, A.P.G. for the State.

ORDER

ZULFIQAR AHMED KHAN, J: Through instant criminal bail application, applicants seek pre-arrest bail in Crime No.104/2018, registered at Police Station Talhar, under sections 337-F (vi), 337-F (i), 337-L (ii), 504, 34 PPC.

2. Precisely, relevant facts of the case are that there was some dispute over the land between complainant and accused party. On 14.05.2018 complainant and PW Bilawal were working in their land when at 1130 hours present applicants came there having lathies and hatchets in their hands. Accused while abusing asked the complainant to come out from the land and then exchanged hot words. Thereafter, it is alleged that accused caused lathi blows on the head and other parts of the body and went away.

3. At the outset, learned counsel for the applicants, *inter alia*, contends that the applicants are innocent and they have falsely been involved in the case in hand due to enmity over the landed property which has been admitted in the FIR itself; that there is delay of more than two months in lodging the FIR which has not been explained properly by the complainant and malafide on the part of complainant appears on the very face of it though they are residing in the same locality; that such a long delay in lodging the FIR and

consultations and deliberations by complainant party cannot be ruled out; that the final medical report has been challenged by the accused party before the Medical Board; that there are counter cases between the complainant and accused party. He lastly contended that all male members of one and same family have been implicated in the case in hand. He therefore, prays for confirmation of interim pre-arrest bail.

4. On the other hand, learned APG opposed the instant bail application on the ground that the names of accused transpire in the FIR and they have caused injuries to the complainant.

5. *Prima facie*, names of the applicants appear in FIR that they came at the land of complainant and caused lathi injuries to him but it is not understandable that why the complainant remained mum for a period of more than 02 months though the accused were earlier known to him and they were also residents of the same vicinity. Moreover, enmity between the parties over some landed property is admitted and per learned counsel for the applicants there are counter cases between the parties with regard to subject dispute of land hence false implication of the applicants in the case in hand at this stage cannot be ruled out. All the witness in this case are related to the complainant. Furthermore, the name of co-accused Shahjehan has been placed in Column No.2 of the challan. The injuries suffered by the complainant are not on the vital parts of the body. The offences with which the present applicants are connected do not fall within the prohibitory clause of Section 497 Cr.P.C. and the case against the applicants requires further inquiry as envisaged under sub-section 2 of Section 497 Cr.P.C.

6. In view of the above discussion, I am of the considered view that a case for grant of pre-arrest bail has been made out in favour of the applicants, as such, the instant bail application is allowed and the interim pre-arrest bail

already granted to the applicants on 10.08.2018 is hereby confirmed on same terms and conditions.

JUDGE

Tufail