

# IN THE HIGH COURT OF SINDH AT KARACHI

Present:

**Mr. Justice Amjad Ali Sahito**

Criminal Bail Application No.02 of 2020

Applicants : (1) Zafar Ullah S/o Ghulam Habib  
(2) Basit Ali S/o Habib Ullah  
Through Mr. Noor Mar Jan  
Khattak, Advocate

Complainant : Riaz Ahmed S/o Manzoor Ahmed  
Through Mr. Dilip Kumar Ladhani,  
Advocate

Respondent : The State  
Through Syed Meeral Shah Bukhari,  
Addl. Prosecutor General, Sindh.

Date of hearing : 04.08.2020

Date of order : 04.08.2020

## **ORDER**

**AMJAD ALI SAHITO, J** -- Through this Bail Application, applicants/accused seek pre-arrest bail in Crime No.460/2019 registered under Sections 337-A(IV)/337-U(i)/34 PPC at PS Docks, Karachi, after their bail plea has been declined by the IInd Addl. Sessions Judge, Karachi West vide order dated 30.12.2019.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Per learned counsel for the applicants, applicants/accused are innocent and have falsely been implicated in this case; as per contentions of the FIR, the complainant has disclosed only brother and son of Habib Ullah but has not disclosed the names of present

applicants/accused; that there is a delay of about 15 days in lodgment of the FIR even then the complainant failed to disclosed the names of the present applicants/accused; however, their names were disclosed after subsequent statement of the complainant; that no specific allegation has been given against the applicants/accused in the FIR to believe that they are involved in this case. Lastly, he prays for confirmation of grant of bail to the applicants/accused on the ground that they are no more required in this case as the case has been challaned and fixed for evidence.

4. On the other hand, learned counsel for the complainant as well as learned Addl. PG have vehemently opposed for grant of bail on the ground that applicants/accused are very much involved in this case; that after receipt of medical certificate, complainant has disclosed their names and the same fact has been admitted by the complainant that he has not given their names in the FIR but after subsequent statement, their names were disclosed.

5. I have heard the learned counsel for the parties and perused the material available on record. It is admitted position that the FIR was lodged after a delay of about 15 days after receipt of medical certificate but the complainant has failed to disclosed the names of the applicants/accused in the FIR; whereas claim of the applicants/accused that they are totally eight (08) brothers, and they were not present at the time of incident. The role assigned against the applicants/accused is general in nature whereas only section 337-A(IV) PPC is notailable which is yet to be determined by the trial Court which applicants/accused have caused injury. Learned counsel for the applicants has also pleaded malafide on the part of the complainant as a dispute is going on between the parties. Therefore, at bail stage false implication

cannot be ruled out in this case. Further, the case has been challaned and applicants/accused are no more required for further investigation. The applicants/accused are attending the Court and there is no complaint that after grant of bail they have misused the same. The contentions raised by learned counsel for the applicants/accused require further inquiry. Moreover, at the bail stage only tentative assessment is to be made.

6. In view of above facts and circumstances, the applicants/accused have succeeded to make out their case for further inquiry as envisaged under section 497 (2) Cr.P.C. Consequently, the instant bail application is allowed. Interim order dated 01.01.2020 passed earlier is hereby confirmed on the same terms and condition. Applicants/accused are directed to attend the trial as and when required.

7. It is made clear that if applicants/accused misuse the concession of bail, learned trial Court would be at liberty to take appropriate action.

Kamran/PA

JUDGE