

# IN THE HIGH COURT OF SINDH AT KARACHI

Present:

**Mr. Justice Amjad Ali Sahito**

Criminal Bail Application No.1177 of 2020

Applicants : i) Mohammad Idrees S/o Ali  
Mohammad  
ii) Ali Asghar S/o Ashraf  
iii) Zafarullah @ Leader S/o Ashraf  
iv) Ghulam Hyder S/o Abdul  
Hameed  
v) Ghulam Qadir S/o Allah Bux  
vi) Noor Ahmed S/o Allah Bux  
Through Mr. Akhtar Ali Jamari,  
Advocate

Complainant : Fateh Muhammad S/o Haji  
Through Mr. Faisal Shahzad, Advocate

Respondent : The State  
Through Mr. Sagheer Ahmed Abbasi,  
Assistant Prosecutor General, Sindh.

Date of hearing : 01.09.2020

Date of order : 01.09.2020

## **ORDER**

**AMJAD ALI SAHITO, J** -- Through this Bail Application, applicants/accused seek pre-arrest bail in Crime No.85/2020 registered under Sections 452, 506/2, 436, 114, 147, 148, 337A(i), 337F(i), 504 read with section 149 PPC at PS Mirpur Sakro, District Thatta, after their bail plea has been declined by learned Additional Sessions Judge-I/Model Criminal Trial Court, Thatta vide order dated 07.08.2020.

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. Learned counsel for the applicants/accused has mainly contended that applicants/accused are innocent and have falsely been implicated in this case; that all sections are bailable except 506/2 whereas section 436 PPC is not applicable in this case as from perusal of mashirnama of place of incident, no burnt article was recovered to believe that section 436 PPC is applicable in this case; that the allegation against applicants/accused is general in nature as the injuries received by the complainant fall within section 337F(i), which is bailable. He lastly prays for confirmation of bail.

4. On the other hand, learned counsel for the complainant as well as learned APG have vehemently opposed for confirmation of bail on the ground that name of the applicants/accused appeared in the FIR with specific role; that previously an FIR was lodged by Mst. Sughran, cousin of all accused, has no concern with this alleged offence.

5. I have heard the learned counsel for the parties and have gone through the material available on record. Admittedly, the name of the applicants/accused finds place in the FIR but role assigned against them is general in nature. The injuries attributed to the applicant Zafarullah declared by the medical officer under section 337F(i) PPC, all sections are bailable except section 506/2 PPC which is yet to be determined by the trial Court when the evidence will be recorded whether the applicants/accused have issued threats of dire consequences or not. Further, perusal of mashirnama of place of incident reveals that no burnt articles were recovered and there was no evidence/sign that the house was on set fire. However, learned counsel for the applicants/accused pleaded malafide on the part of complainant as prior to this FIR, Mst. Sughran, cousin of all accused lodged the FIR being Crime No.63/2020 against the

complainant; hence, allegedly false implication cannot be ruled out. At bail stage, only tentative assessment is to be made and deeper appreciation of evidence is not required.

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 10.08.2020 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.

JUDGE

Kamran/PA