

Order Sheet
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

Cr. Bail Application No. S- 924 of 2019

Sadam Hussain & others ----- Applicant

Versus

The State ----- Respondent

Date of Hearing : 04.10.2019

Mr. Altaf Sachal Awan advocate for applicant
Mr. Shahid Ahmed Shaikh, D.P.G.
Mr. Ali Murtaza Babar advocate for complainant.

ZULFIQAR ALI SANGI, J.- Through instant application, applicants namely Sadam Hussain, Yousif and Altaf Hussain seeking their pre-arrest bail in crime number 56 of 2019 registered at police station Phulji under Section 506/2, 427, 337-F(1) L-II, 504, 34 and 114 PPC. Earlier their bail plea was rejected by Additional Session Judge-III Dadu vide order dated 16.09.2019.

The allegations against the applicants according to FIR are that they on 17-08-2019 entered in the house of complainant in absence of her husband duly armed with pistols and lathies. They abused her, on the instigation of accused Fateh Muhammad accused Yousif caused danda blow to her on right arm on elbow, accused Altaf caused danda blows to her on left arm, meanwhile co-villagers and her husband Ali Asghar his cousin Abdul Gafoor came running then accused Fateh Muhammad and Sadam aimed their pistols, accused Altaf and Yousif broken the solar plate, solar fan and washing machine. After taking treatment she moved application to DSP complaint cell and after obtaining orders FIR was registered.

Learned counsel for applicants submits that applicants are innocent and implicated by the complainant party due to enmity, that enmity is admitted in FIR: that all Sections are bail able except Section 506/2 PPC, that offence does not fall within the prohibitory clause of Section 497 Cr.P.C, Lastly he prays for confirmation of their bail.

Learned counsel for complainant so also DPG for the State argued that names of applicants are mentioned in FIR: that specific role has been assigned to the applicants in FIR: that they entered in the house of complainant and caused her injuries which are supported by medical certificate issued by doctor, hence both the counsel pray that bail plea of applicants may be declined.

I have heard arguments of learned counsel for the parties and perused the material available in file.

Record reflects that there is enmity between the parties on matrimonial affairs and accused / applicants are near relative of first wife of the husband of complainant. None of the injury is declared by the doctor as fatal and all are simple in nature providing punishment which do not fall within the prohibitory clause of Section 497 Cr.P.C and are bailable except Section 506/2 PPC. It is well settled principle of law that deeper appreciation of evidence is not permissible at bail stage and material is to be assessed tentatively. The tentative assessment of material available on record makes the case of applicants of further inquiry, therefore, by following the golden rule of bail not jail the interim pre-arrest bail granted earlier to the applicants vide order dated 23.09.2019 is hereby confirmed on the same terms and conditions.

Needless to mention that the observations made hereinabove are tentative in nature and shall not cause prejudice to the right of either party at trial.

JUDGE