

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.1788 of 2020

Date *Order with signature of Judge*

For hearing of Bail Application.

13.01.2021

Syed Israr Ali Shah, Advocate along with Applicants (on bail).
Syed Meeral Shah Bukhari, Addl. Prosecutor General, Sindh along
with Complainant Mst. Bashiran.

ORDER

Muhammad Saleem Jessar, J:- Through this application, applicants Malik Imran and Malik Usama seek their admission on pre-arrest bail in Crime No.337/2020 of Police Station Nabi Bukhsh, Karachi, under Section 354/337-A(i)/452/504/34 PPC. The bail plea preferred by them before first forum was declined by means of order dated 17.11.2020, hence this bail application.

Since the facts of the prosecution case are already mentioned in the FIR as well as impugned orders, which are annexed with Court files, therefore, there is no need to reproduce the same.

Learned counsel submits that applicants have falsely been implicated by the complainant in her FIR as no specific role or overt act is specified against them. He next submits that sections applied in FIR are bailable except section 452, which carries maximum punishment upto 7 years; hence, does not exceed limits of prohibitory clause of section 497 Cr.P.C. He, therefore, prays for confirmation of the bail.

On the other hand, learned Addl. Prosecutor General, Sindh appearing for the State, opposes the bail application on the ground that FIR was lodged promptly as well as applicants are nominated in FIR; besides, they have caused multiple injuries to the complainant on her person. He; however, does not controvert the fact that punishment provided by the law for certain offence does not fall within the ambit of prohibitory clause of Section 497 Cr.P.C.

Heard arguments and perused record. No doubt, applicants are nominated in FIR; however, no specific role of causing injury or overt act is assigned to them. As far as, malafide is concerned, complainant herself has admitted that she inadvertently put her foot on newly cemented block, which invited ladies belonging to the accused and later they have entered in her house and caused multiple injuries. The story put-fourth by the complainant herself is that ladies from the accused house have maltreated her but she instead to give true version, has arrayed present applicants. Moreover, the sections applied in FIR are bailable except section 452 PPC, which carries maximum punishment upto 7 years. The case has been challaned and the applicants have joined trial proceedings, therefore, they are no more required by the police for the purpose of investigation or interrogation.

In the circumstances and in view of dicta laid down by the Hon'ble Supreme Court of Pakistan in case of *MUHAMMAD TANVEER Versus The STATE and another (PLD 2017 SC 733)*, case against applicants requires further inquiry within meaning of subsection 2 to Section 497 Cr.P.C. Consequently, application in hand is hereby allowed; interim bail granted earlier to applicants Malik Imran son of Abdul Rehman and Malik Usama son of Jawaid on 19.11.2020 is hereby confirmed on same terms and conditions.

Before parting with this order; however, it is clarified that the reasoning given in this order are tentative in nature and will have no effect whatsoever in any manner upon the merits of the case.

Applicants present before the Court are directed to continue their appearance before the trial Court without negligence and in case they may misuse the concession or may temper with the prosecution's evidence then the trial Court is competent to take legal action against them as well to their surety in terms of Section 514 Cr.PC. Trial Court is also hereby directed to make necessary arrangements for securing attendance of the prosecution witnesses and conclude the trial within shortest possible time under intimation to this Court through MIT-II. Let copy of this Order be communicated to trial Court through learned Sessions Judge, concerned. Learned MIT-II to ensure compliance.

JUDGE