

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

Criminal Bail Application No.S-345 of 2021

Applicants : Allah Dino Son of Imam u Din Panhwar, Muhammad Paryar Son of Saa Khan Panhwar, Muhammad Buxial Son of Lal Bux Panhwar and Ali Hassan Son of Deen Muhammad, through Ashfaque Hussain D. Solangi, Advocate.

Respondent : The State through Ms. Rameshan Assistant Prosecutor General, Sindh.

Complainant : Gohram Khan Son of Buxal Khan through Mr. Muhammad Nawaz Panjotha. Chandio, Advocate.

Date of hearing : **08.11.2021**
Date of Order : **08.11.2021**

O R D E R

AMJAD ALI SAHITO, J:- Through the instant bail application, the applicants/accused above named seek their pre-arrest bail in Crime No.52 of 2021, under sections 506/2, 435, 504, 427 P.P.C, registered at P.S Sehwan, after their bail plea was declined by the learned Additional Sessions Judge, Sehwan, vide order dated 24.04.2021.

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

3. Per learned counsel the applicants/accused are innocent and the have falsely been implicated in this case; that after registration of the F.I.R the investigation was conducted and the report under section 173 Cr.P.C (Challan) was submitted before competent Court of Law by recommending the case to be dispose of in "C" Class but the learned Magistrate did not agree with the same and took the cognizance of the matter; that no specific role has been against the applicants/accused by the complainant party and enmity is admitted between the parties; that the applicants are attending the learned Trial Court but the complainant party is avoiding to proceed with the case. In support of his contentions, he has produced certain documents along-with his statement and lastly prayed for confirmation of interim pre-arrest bail.

4. Learned counsel for the complainant as well as learned Assistant Prosecutor General, Sindh vehemently opposed for grant of interim pre-arrest bail on the ground that the applicants/accused are very influential persons who as such by applying pressure upon the police earlier had tampered with the evidence thereby got disposed of the case

in "C" Class but the same was not accepted by the learned Magistrate and took cognizance.

5. I have heard learned counsel for the applicants, the learned counsel for the complainant as well as Assistant Prosecutor General, Sindh and gone through the record available.

6. From perusal of record it reflects that all accused persons allegedly gathered at the time of incident while applicant Haji Dino @ Allah Dino from the northern side and applicant Paryal from the southern side took out match boxes from their pockets and set the wheat granary at fire resultantly entire granary went into ashes. The story narrated by the complainant is not appealing to a prudent mind therefore requires further probe at trial. The learned counsel for the applicants pleaded malafide on the part of complainant for falsely implicated the applicants in this case. The applicants are attending the learned Trial Court and they are no more required for further investigation. Applicants Muhammad Buxial and Ali Hassan were shown to have been present with pistols however it appears that this role is in general in nature which is yet to be determined whether they have participated in the commission of offence or not when the evidence will be recorded. At bail stage only tentative assessment is to be made. Further I.O of the case disposed off the matter under 'C' Clause. The applicants/accused are attending the trial Court regularly, but the complainant and his witnesses are avoiding to proceed with the case. Complainant also admitted enmity between the parties in F.I.R over Maqata of the land.

7. In view of above, the case of the applicants/accused falls within the ambit of sub-section (2) of section 497 Cr.P.C and learned counsel for the applicants/accused has pleaded malafide on the part of the complainant for their false implication in this case which cannot be ruled out, therefore, the bail application is allowed. Consequently, the interim pre-arrest bail granted to the applicants/accused by this Court vide Order dated 03.05.2021, is hereby confirmed on the same terms and conditions however the learned Trial Court is directed to procure the attendance of the witnesses and proceed with the matter on day to day basis by not granting adjournment on flimsy grounds and conclude the case within sixty (60) days after receipt of copy of this order. The applicants/accused are directed to attend the learned Trial Court regularly if, the applicants/accused fail to

appear the Trial Court would be at liberty to take actions against them in accordance with law.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of the applicants on merits.

JUDGE

*Muhammad Danish**