

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

Criminal Bail Application No.S-1030 of 2021
Criminal Bail Application No.S-1015 of 2021

Applicants : 1) Nawab Ali alias Naboo and Ali Nawaz both sons of Pandhi in Criminal Bail Application No.S-1030 of 2021 through Mr. Ghulamullah Chang, Advocate.

2) Bilawal son of Ghulam Muhammad in Criminal Bail Application No.S-1015 of 2021 through Mr. Bharat Kumar Suthar, Advocate.

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

Complainant : Ghulam Nabi Son of Ameer Khan through Mr. Khadim Hussain Laghari, Advcoate.

Date of hearing: **03.12.2021**
Date of Order : **03.12.2021**

O R D E R

AMJAD ALI SAHITO, J:- Through this single order, both the captioned bail applications are being decided as the same are outcome of one F.I.R and same incident. The applicants/accused above named seek their pre-arrest bail in Crime No.66 of 2021, under sections 302, 324, 114, 147, 148, 149, 337-H(ii), 337-A(i), 337-F(i), 504, 34 P.P.C, registered at P.S Pangrio District Badin, after their bail plea was declined by the learned 1st Additional Sessions Judge/MCTC Badin, vide order dated 02.11.2021.

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 near about 24 nominated persons including almost 8 unknowns persons have been shown in the F.I.R but the complainant has disclosed each and every event of the occurrence which is impossible for him. He further contended that though the names of the applicants/accused appeared in the F.I.R but they have not caused any kind of injury to the deceased simply their aerial firing has been shown in F.I.R. He prayed malafide on the part of the complainant that there was dispute in between Unar and Laghari brotherly but due to friendship complainant have implicated the Gahu brotherly in this case. Lastly he prayed for confirmation of interim pre-arrest bail.

4. On the other hand, learned counsel for the complainant as well as learned Assistant Prosecutor General, Sindh vehemently opposed for confirmation of interim pre-arrest bail by submitting that the names of the applicants appear in the F.I.R; however, they have admitted that they have not caused any kind of injury to the deceased. They lastly prayed for dismissal of bail.

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

6. No doubt the names of the applicants/accused appear in the F.I.R but no specific role for causing any injury to deceased is assigned to them though they were allegedly armed with pistols and gun but they did not use the same to cause injury to anyone in the occurrence. In the case of *QURBAN ALI Vs. THE STATE and others [2017 SCMR 279]* the Hon'ble Supreme Court of Pakistan has granted bail to accused who had not been attributed any overt act during the occurrence except the role of raising *lalkara* and further held that in such circumstances Trial Court had to determine, after recording pro and contra evidence, whether the applicant was vicariously liable for the act of his co-accused and that case was one of further inquiry. Learned counsel for the applicants pleaded malafide on the part of the complainant.

7. In view of above, learned counsel for the applicants has made out a case for confirmation of interim pre-arrest bail. Consequently, the bail applications are allowed and the interim pre-arrest bail earlier granted to the applicants by this Court vide Orders dated 09.11.2021 & 12.11.2021, are hereby confirmed on the same terms and conditions. The applicants/accused is directed to attend the learned Trial Court regularly if they 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.