

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

Criminal Bail Application No.S-982 of 2021

Applicants : Ameer Bux @ Meeral, Sajjad Ali, Ghulam Ali and Pir Mushtaque through Mr. Ayaz Ali Gopang, Advocate.

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

Complainant : Sajan through Mian Taj Muhammad Keerio, Advocate.

Date of hearing: **06.12.2021**  
Date of Order : **06.12.2021**

**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.66 of 2021, under sections 302, 324, 337-A(ii), 337-L(ii), 337-F(i), 504, 147, 148, 109 P.P.C, registered at P.S Khadhar, after their bail plea was declined by the learned V<sup>th</sup> Additional Sessions Judge/MCTC, Shaheed Benazirabad, vide order dated 27.10.2021.

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 applicants/accused have not committed the alleged offence but they have been falsely implicated by the complainant in this case with malafide intention at the instance of Pir Shoaib Ahmed with whom the dispute over the Goth Abad Scheme is going on and such litigations are in between applicant/accused Ameer Bux and Pir Shoaib Ahmed since 2016; that applicant/accused Pir Mushtaque has been falsely roped at the instance of Pir Shoaib Ahmed as the co-accused Ghulam Abbas and Qadir are his haries; that prior to this incident the free fight took place between the complainant and accused party wherein both the parties received injuries. 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 with their specific role; that due to assault of accused party one innocent boy has lost his life whereas other were injured from complainant side; that the incident reported promptly by the complainant at P.S without delay; that even the accused party admitted that they have

received injuries which means they acknowledged their presence at scene of occurrence. 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. In the case of *KHAIR MUHAMMAD and another Vs. The State through P.G. Punjab and another (2021 SCMR 130)* the Hon'ble Supreme Court of Pakistan held that while granting pre-arrest bail merits of the case can be touched upon by relying upon the said case I have to decide this bail application. In the instant case the role assigned against the applicant Ameer Bux @ Meeral having armed with SBBL by giving hackals abused the complainant party and at the time of incident was present but he had not participated in the incident and not caused single injury either to the deceased or witnesses. Further the role assigned against applicant Sajjad Ali in the instant case is that he was armed with hatchet and given hatchet blow to the complainant at his left arm but as per medical evidence that injury is also a bailable whereas role assigned against applicant Pir Mishtaque that he was also present at place of incident otherwise he has also not participated in the present case. 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 invited the attention of the Court on page number 129 as well as page number 155 of the memo of bail application wherein prior to the incident the accused Ameer Bux filed application under section 22-A 6(iii) Cr.P.C against the complainant party as well as suit on the disputed property, as such, learned counsel for the applicants/accused pleaded malafide on the part of the complainant that false implication cannot be ruled out. At bail stage only tentative assessment is to be made. The challan has been submitted and the applicants are attending the Trial Court, they are more required for further investigation, resultantly bail application to the extent of applicants Ameer Bux @ Meeral, Sajjad Ali and Pir Mushtauqe is allowed and interim

pre-arrest bail earlier granted to them vide order dated 29.10.2021 is confirmed on the same terms and conditions.

7. Reverting to the case of applicant Ghulam Ali that he has caused butt blow of pistol to Sadoro which hit him on his mouth on which his five teeth were damaged as such the injury was declared by medico-legal officer 336 P.P.C (itlaf-i-salahiyyat-i-udw) which falls within the prohibitory clause of section 497 Cr.P.C, resultantly the bail application of above named accused Ghulam Ali is dismissed and interim pre-arrest earlier granted to him vide order dated 29.10.2021 is recalled.

8. The applicants/accused are 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.

9. 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.

*Muhammad Danish\**

JUDGE