

**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**  
**Crl. Bail Application No. S-304/2021.**

Date of hearing	Order with signature of Judge
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For hearing of bail application.

**ORDER.**  
**16-08-2021.**

Mr. Deewan Dhanraj, advocate for the applicants.  
Mr. Rahib Islam Nabi Malano, advocate for complainant.  
Mr. Shafi Muhammad Mahar, DPG for the State.

**AMJAD ALI SAHITO J.,** Through the instant Crl. Bail Application, applicants/accused Muhammad Hayat, Muhammad Idrees and Khan Muhammad seek pre-arrest bail in crime No. 57/2021, offence u/s 302, 114, 147, 148, 149, 504 PPC registered at police station Darya Khan Mari. Prior to this, the applicants have filed such applications for grant of pre-arrest bail, but the same was turned down by learned 1<sup>st</sup> Additional Sessions Judge, (MCTC) Naushahro Feroze vide order dated 06-05-2021, hence they have filed instant bail application.

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

3. Learned counsel for applicants submits that applicants are innocent and have falsely been implicated in this case by the complainant with mala fide intentions and ulterior motives due to previous enmity, which is admitted by the complainant in the FIR; that no specific role is assigned by the complainant

against the applicants/accused except applicant Muhammad Hayat and simple allegation of instigation has been attributed against him by the complainant; that during pendency of this bail application, the applicants/accused have filed an application u/s 22A(ii) Cr.P.C before the Sessions Judge/Ex-Officio Justice of Peace Naushahro Feroze and on the direction of the Court, the investigation was conducted by DSP Naushahro Moro, who after investigation, declared the applicants/accused as innocent and placed their names in column No.2 of the charge sheet; that after grant of interim pre-arrest, the applicants have joined the investigation and they have not misused the concession of interim pre-arrest bail, therefore, he pray for confirmation of interim pre-arrest bail.

4. On the other hand learned counsel for the complainant has opposed the grant of pre-arrest bail to the applicants/accused on the ground that they are nominated in the FIR and they with the common intention have committed the murder of deceased, therefore they are not entitled for the concession of pre-arrest bail.

5. Learned DPG for the State submits that FIR is delayed for about 07 hours and during pendency of instant bail application, the investigation has been conducted by DSP Moro, in which they have been declared innocent, therefore, he has conceded for confirmation of bail.

6. I have heard learned counsel for applicant, learned DPG for the State so also have gone through the material available on record.

7. Admittedly, the names of the applicants/accused appeared in the FIR, but no specific role has been assigned to them, although applicant/accused Khan Muhammad armed with hatchet and Muhammad Idrees armed with lathi, allegedly shown in the FIR, but they have not caused any injury to deceased Zulfiquar. The complainant has admitted the enmity in the FIR as such sharing of common intention requires evidence. Moreover, the DSP Moro has conducted further investigation, who has declared the applicants/accused innocent and placed their names in column No.2 of the challan, as such learned counsel for the applicants/accused has pleaded malafide on the part of complainant. Learned DPG for the State has also conceded for confirmation of bail. The FIR is delay for about 07 hours and such delay has not been explained by the complainant. The investigation has been completed and applicants/accused are no more required for further investigation.

7. In view of above discussion, learned counsel for the applicants/accused has made out a good case for confirmation of bail in the light of sub section (2) of Section 497 CrPC, hence the instant bail application is allowed and the interim pre arrest bail already granted to the applicants/accused is confirmed on

same terms and condition. Learned trial Court is at liberty to take action against the applicants/accused, if they misuse the concession of bail.

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

**J U D G E**

Nasim/P.A