

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Criminal Bail Application No.D-22 & 23 of 2022

<u>DATE</u>	<u>ORDER WITH SIGNATURE OF JUDGE</u>
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23.08.2022

M/s Mehmood Alam Rizvi and Mehmood Alam Abbasi,
advocates for applicants.

Mr. Wazir Hussain Khoso advocate for complainant.

Mr. Nazar Muhammad Memon, Addl.P.G Sindh.

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MUHAMMAD IQBAL KALHORO, J.- Applicants are alleged to have issued threats and demanded bhatta / extortion from the management of Hydro China Metro Company Kohistan, within jurisdiction of PS Makli District Thatta, tasked with producing Wind Power in December 2021 and in order to enforce their demands had held out protests and blocked the roads. FIR No.170/2021 has been registered by Manager of the company, whereas FIR No.179/2021 has been registered by one of the contractors of the company with identical allegations. In first FIR there is delay of 05 days, and second FIR was registered after delay of 11 days. Except demand of bhatta and issuing threats, no other allegations are documented therein.

2. Learned defence counsel has pleaded for applicants' bail citing their innocence, pending civil litigation between the parties, and constitution petition before this court at Karachi. He in order to support his arguments has relied on the case of NIZAM-UD-DIN versus The STATE (2022 YLR 828) and SAGHEER AHMED versus The STATE and others (2016 SCMR 1754).

3. Learned counsel for complainant and Assistant Prosecutor General have opposed such relief to the applicants stating that there is no malafide on the part of complainant which is a China-based Company tasked by the Government of Pakistan to produce Wind Power but due to applicants mischiefs is not able to function upto the hilt.

4. We have considered submissions of the parties and perused material available on record including the case law. There are only allegations of demand of bhatta against applicants. Before these FIRs, no case of such nature has ever been registered against them although the company has been working over there for the past 10

to 12 years. It is also notable that before these FIRs the applicants had held out protest against the company. They were arrested on 04.03.2022 and are no more required for further investigation, which meanwhile, has been completed. The relief of bail is a temporary arrangement always subject to a final outcome of the case to be decided by the trial court after recording of evidence. No purpose would be served in keeping the accused in jail and deny them bail as a punishment. Moreso, offences as alleged against applicants do not fall within the prohibitory clause u/s 497(1) Cr.P.C and in such cases grant of bail is a rule and refusal an exception.

5. In these circumstances, we allow the applications, grant bail to the applicants against surety of Rs.1,00,000/- to be executed by them in each case before the trial court. The trial court, however, shall make sure expeditious trial and if find applicants trying to tamper with evidence or repeating the offence, may cancel the concession granted to them by this order but only after affording an opportunity of hearing in this regard.

6. The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE
JUDGE