

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

Criminal Bail Application No.S-490 of 2021

| DATE | ORDER WITH SIGNATURE OF JUDGE |
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1. For orders on office objections.
2. For hearing of main case.

25.03.2022

Miss. Urooj Aqeel, Advocate for applicants.
Ms. Safa Hisbani, A.P.G for the State.
Syed Shafique Ahmed Shah, Advocate for complainant.

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Irshad Ali Shah J:- It is alleged that the applicants with the rest of the culprits after having formed an unlawful assembly and in prosecution of their common object caused hatchets injuries to complainant Noor Muhammad and PW Muhammad Hanif with intention to commit their murder. On sustaining of such injuries, PW Muhammad Hanif died subsequently, for that the present case was registered.

2. The applicants on having been refused post arrest bail by learned 1st Additional Sessions Judge, Tando Allahyar have sought for the same from this Court by making instant application u/s 497 Cr.P.C.

3. It is contended by learned counsel for the applicants that the applicants being innocent have been involved in this case falsely by the complainant party in order to satisfy its dispute with them over passage; the FIR has been lodged with delay of about nine days; the N.C report is vague and co-accused Mubarak has already been

admitted to bail by learned Trial Court, therefore, they are entitled to grant of bail on point of further inquiry and consistency.

4. Learned A.P.G for the State and learned counsel for the complainant have opposed to grant of bail to the applicants by contending that they have actively participated in commission of incident by causing hatchets injuries to the complainant and deceased and their case is distinguishable to that of co-accused Mubarak.

5. Heard arguments and perused the record.

6. The applicants are named in FIR with specific allegation that they with rest of the culprits after having formed an unlawful assembly and in prosecution of their common object caused hatchets injuries to complainant Noor Muhammad and PW Muhammad Hanif with intention to commit their murder. On account of sustaining hatchets injuries by PW Muhammad Hanif died in hospital. The specific role of causing hatchets injures to the complainant and deceased is attributed to the applicants, therefore, it would be premature to say that they being innocent have been involved in this case falsely by the complainant party only to satisfy its dispute with them over passage. The delay in lodgment of FIR has been explained plausibly as it occurred for the reason that the complainant and PW Muhammad Hanif (who died subsequently) could not report the incident to police promptly being injured, such delay even otherwise could not be resolved by this Court at this stage. Whether the N.C report is vague or otherwise, such fact too could not be resolved by this Court at this stage. The case of the applicants is distinguishable

to that of co-accused Mubarak, who obviously was attributed no effective role in commission of incident. The deeper appreciation of facts and circumstances is not permissible at bail stage. There appear reasonable grounds to believe that the applicants are guilty of the offence with which they are charged.

7. In view of above, it could be concluded safely that no case for grant of bail to the applicants is made out, consequently, the instant bail application is dismissed.

JUDGE

Muhammad Danish*