

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

Cr. Bail. Appl. No. S- 980 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
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26.09.2022.

Mr. Muhammad Iqbal Qassar, Advocate for applicants alongwith applicants (on bail).

Mr. Nazar Muhammad Memon, Additional P.G. for the State.

Complainant present in person.

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ORDER

ADNAN-UL-KARIM MEMON J: Through this application, applicants Laiq Muhammad and Sawan seek their admission on pre-arrest bail in Crime No.119/2022 Police Station Talhar for offenses publishable under section 337-F (vi), 337-A(i), 337-F(i), 504, 34 PPC. The bail plea raised by them before the trial Court was rejected vide order dated 06.09.2022 on the ground that the applicants and his accomplices are named in FIR with specific roles of causing lathi blow to the complainant.

2. The allegations against the applicants are that on 18.05.2022 he along with his accomplices came into the house of complainant to receive back his wife but the complainant denied, whereupon all the accused persons maltreated him with kicks and fists blows, in the meanwhile main accused Zaman alias Abloo Lashari caused lathi blow to the complainant which hit to little child Ghulam Qadir on his left leg, hence the FIR was lodged. After registration of FIR, police took up investigation and after completing all the formalities submitted challan before the concerned court.

3. Mr. Muhammad Iqbal Qassar, learned counsel for applicants submits that the applicants are innocent and have falsely been implicated in the case at hand; that admittedly there is matrimonial dispute between the parties and just to convert it into criminal proceedings, the complainant has lodged this false FIR after a long delay of about 02 months and 20 days without any plausible explanation; that there is also no mention of minor baby in the FIR **that in whose hands he was taken**; that the offenses with which applicants have been

charged are carrying punishment not more than 07 years and thus does not fall within the prohibitory clause of Section 497 Cr.P.C. He, therefore, submits that interim pre-arrest bail earlier granted to the applicants may be confirmed.

4. On the other hand, Mr. Nazar Muhammad Memon, learned Additional P.G. along with complainant, opposes the bail application on the ground that applicants are nominated in FIR with specific role; however, he could not controvert the fact that there is inordinate delay of about 02 months and 20 days in lodgment of FIR and that the offense does not fall within the prohibitory clause of Section 497 Cr.P.C.

5. I have heard learned counsel for the parties at some length and have perused the record with their assistance.

6. The FIR in the instant case was registered after a delay of 02 months and 20 days for which no plausible explanation has been given. As per the contents of F.I.R, no allegation of causing lathi blow to the complainant has been leveled against the applicants. The aforesaid factum could be looked into while granting pre-arrest bail in view of the dictum laid down by Honorable Supreme Court in the case of Miran *Bux v. The State* (**PLD 1989 SC 347**). Besides, the offenses do not fall within the prohibitory clause of Section 497, Cr.P.C. Prima-facie the case of the applicants require inquiry in terms of Section 498-A Cr.P.C.

7. The upshot of the above discussion is that the applicants have succeeded to make out a good prima facie case for grant of pre-arrest bail. Accordingly, the interim pre-arrest bail earlier granted to the applicants in terms of order dated 19.09.2022 is hereby confirmed on the same terms and conditions.

JUDGE

Tufail