

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Cr. Bail Application No. 09 of 2021

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| DATE | ORDER WITH SIGNATURE OF JUDGES |
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For hearing of bail application.

13th December, 2021

Mr. Kher Muhammad, Advocate a/w applicants.

Mr. Talib Ali Memon, APG.

Ms. Umm-e-Kulsoom, Advocate for complainant.

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Omar Sial, J: Ali Waqas and Ali Raza have sought pre-arrest bail in crime number 568 of 2020 registered under sections 147, 148, 149, 337-A(i), 337-F(ii), 452 and 34 P.P.C. at the Landhi police station. Earlier, his application seeking bail was dismissed on 11-12-2020 by the 4th Additional Sessions Judge, Karachi East.

2. Facts of the case are that the aforementioned F.I.R. was registered on 22.10.2020 on the complaint of one Faizan Mazhar. He recorded that on 21.10.2020 at 6:30 p.m. he was at home when the two applicants along with one Nabeel entered his house and beat him with dandas, iron rods and a hammer. Upon hearing the commotion the complainant's father, cousin and brother-in-law also came to where the altercation was going on and upon seeing them the accused persons left the house but damaged the complainant's car and mobile phone and resorted to aerial firing while leaving.

3. I have heard the learned counsels for the applicants and complainant as well as the learned Assistant Prosecutor General.

4. All offences with which the applicants are charged are bailable except those under section 337-F(ii) and 452 P.P.C. Offences under section 337-F(ii) and section 452 P.P.C. though non-bailable fall within the non-prohibitory clause of section 497 Cr.P.C. as they carry a potential sentence of up to three years and seven years respectively. Keeping the principles enunciated by the Honorable Supreme Court in the case of Tariq Bashir and 5 others vs The State (PLD 1985 SC 34) in mind I do not find any exceptional or extraordinary reasons to deny the applicants bail. At this preliminary stage there is no detail provided as to how and why did the applicants enter the house of the complainant. No explanation or

reason to this effect has been provided by the complainant's counsel during the hearing. The complainant knew them well as not only did he identify them by name but also gave their parentage. It seems unnatural that the accused would without any rhyme or reason enter the house of the complainant and beat him and go away. A scuffle seems to have occurred between the parties for reasons best known to them. The applicants however claim that there is a property dispute between the complainant's father and Ali Raza and that in the scuffle, Ali Raza was also hurt. Malafide on the part of the complainant can thus not be conclusively ruled out at this stage. It requires further inquiry as to whether the incident unfolded in the manner as narrated by the complainant

5. Above are the reasons for the short order of 25-11-2021.

JUDGE