

IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-84 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection.
For hearing of main case.
07.04.2023

Mr. Ghulam Mustafa Hingorjo, advocate for the applicants along with applicants, who are present on interim pre-arrest bail.

Mr. Imran Ahmed Abbasi, A.P.G. Sindh.

Amjad Ali Sahito, J:- Through instant bail application, the applicants/accused namely, Uris and Badal seek pre-arrest bail in Crime No.77/2022, registered at Police Station Islamkot, District Tharparkar for the offence under 324, 506 (ii), 337-A (i), 337-F (i), 337-F (v), 337-L (ii), 147, 148, 149, 114, 403, 504 PPC. Earlier the bail plea of the applicants/accused was declined by the learned Additional Sessions Judge-I, Tharparkar at Mithi vide order dated 24.01.2023.

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

3. Learned counsel for the applicants has mainly argued that the applicants/accused are innocent and have falsely been implicated in this case; that the FIR registered by the complainant after 18 days delay of the incident without plausible explanation; that the medical evidence is in conflict with the ocular evidence; that there is no any independent and corroborative evidence against the applicants/accused regarding commission of offence; that challan has been submitted and applicants/accused are regularly attending the trial Court; that the applicants/accused are no more required for further investigation. Learned counsel has prayed for grant of bail to the applicants/accused and relied upon the cases reported in 2017 P Cr.LJ Note 108 (Lahore), 2018 YLR 204 (Sindh) and 2021 P Cr.LJ Note 89 (Lahore).

4. On the other hand, learned A.P.G. Sindh has vehemently opposed the grant of bail to the applicants/accused.

5. Heard and perused the record.

6. Perusal of record reflects that the names of the applicants/accused are appearing in the FIR with specific role. On the day of incident the applicants/accused along with co-accused attacked upon

complainant party, resultantly almost eight injuries caused to the different parts of the body of complainant Pervaiz and three injuries on the different parts of body of injured Abdul Haleem. Delay in lodgment of FIR has been fully explained. Since, the prosecution has, *prima facie*, furnished sufficient material to connect the applicants/accused with the commission of offence; therefore, this is a case where bail cannot be granted to the applicants/accused when the specific roles have been assigned to the applicants/accused. Though the learned counsel has pleaded *mala fide* upon complainant as well as police but infliction of such serious injuries to the complainant and injured negate any *mala fide* on the part of the complainant or police that the accused have been booked in this case falsely.

7. Further, in addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual course of law, arrest in cognizable cases; protection to the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*, it is not a substitute for post-arrest bail in every run of the mill criminal case as it seriously hampers the course of the investigation. There is sufficient material available on the record to establish that the case of the applicants/accused does not fall within the purview of section 497(2), Cr.P.C. entitling for further inquiry into his guilt. Consequently, instant criminal bail application is **dismissed** and interim pre-arrest bail granted to the applicants/accused vide order dated 30.01.2023 is hereby recalled.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicants on merits.

JUDGE