

IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-217 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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<u>31.03.2023</u>	For orders on office objection. For hearing of main case.
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Mr. Ghulam Murtaza Shaikh, advocate for the applicants along with applicants, who are present on interim pre-arrest bail.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

Amjad Ali Sahito, J:- Through instant bail application, the applicants/accused namely, Ali Ghulam @ Ghulam Ali, Muhammad Imran @ Imran, Sattar Chandio @ Haneef and Altaf Hussain @ Daloo Chandio seek pre-arrest bail in Crime No.12/2023, registered at Police Station Piaro Lund, District Tando Allahyar for the offence under sections 382, 452, 337-F (i), 34 PPC. Earlier the bail plea of the applicants/accused was declined by the learned 2nd Additional Sessions Judge, Tando Allahyar vide order dated 03.03.2023.

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 contended that the applicants/accused are innocent and have falsely been implicated in this case due to enmity over the street; that there is delay of twenty two days in lodgment of FIR and no plausible explanation has been furnished. Learned counsel has further contended that case has been challaned and the applicants/accused are attending the court and they are no more required for further investigation. He pleaded *mala fide* on the part of the police. In support of his contentions, learned counsel has relied upon the case of 'MANU alias MANTHAR and 3 others v. THE STATE' reported in 2006 YLR 3088 and prayed for confirmation of interim pre-arrest bail of the applicants/accused.

4. On the other hand, A.P.G. Sindh has vehemently opposed the bail application and further contended that the ocular evidence finds support from the medical evidence; that the recovery of theft pistol has been effected from one of accused Ali Ghulam; that all the accused jointly committed the offence and there is no mala fide or ill will on the part of complainant.

5. Heard and perused the record.

6. Perusal of record reflects that the names of the applicants/accused find place in the FIR with specific assertion that the applicant/accused Ali Ghulam committed theft of complainant's licensed pistol and that the applicants/accused who were having lathis with their common intention have attacked upon complainant and given him kicks and fists as well lathis blows. The ocular version is fully supported by the medical evidence. The recovery of alleged theft pistol of the complainant has also been effected from the accused Ali Ghulam, as such, this aspect of recovery from accused also breathes the version to the allegations levelled by complainant. Further, no ill will or mala fide has been pointed out by the learned counsel, which is basic requirement for grant of pre-arrest bail. Delay in lodgment of FIR has been fully explained by the complainant and the PWs have supported the prosecution case in their statements under sections 161 Cr.P.C. 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 who coupled with committing theft of licensed pistol of the complainant have also caused injuries to him, as such, they do not deserve for concession of bail. In such circumstances, the learned counsel for the applicants/accused has failed to make out case for further inquiry. Consequently, instant criminal bail application is **dismissed** and interim pre-arrest bail granted to the applicants/accused vide order dated 07.03.2023 is hereby recalled.

7. 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