

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Criminal Bail Application No.S-294 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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12.06.2023

Mr. Zeeshan Ali Memon advocate for applicants along with applicants on ad-interim pre-arrest bail.

Mr. Heman Das S. Sanghani advocate for complainant along with complainant.

Mr. Imran Ali Abbasi, Assistant Prosecutor General.

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MUHAMMAD IQBAL KALHORO, J.- There is a dispute over agricultural land between complainant and the accused. On 09.02.2023 when complainant was returning to home from his land, applicants duly armed with lathies and hatchets attacked him and caused multiple injuries on his body, twelve in number. Applicant Muhammad is said to have caused hatchet blow on his hand causing fracture and dislocation, an injury opined by Medico Legal Officer as 337-F(vi) PPC, punishable up to 07 years. The injuries caused by other applicants however are minor in nature and bailable as confirmed by learned Assistant PG.

2. Learned counsel in defense has argued that applicants have been implicated on account of enmity between the parties which is admitted; there is a delay of seven (07) days in registration of FIR which has not been explained; there is difference between medical evidence and the ocular account; the applicants are, therefore, entitled to pre-arrest bail.

3. Learned counsel for complainant has opposed bail to the applicants.

4. Learned Assistant PG has however opposed bail to only applicant Muhammad citing his specific role and injury and has not opposed bail to the other applicants on the ground that injuries attributed to them are bailable and bail in bailable offence is right of applicants.

5. I have heard the parties and perused material available on record. The injury assigned to applicant Muhammad is confirmed by the medical evidence and supported by the witnesses in their statements u/s 161 CrPC. The injuries attributed to other applicants are however minor in nature and bailable. In view of specific role of applicant Muhammad he is not entitled to concession of pre-arrest bail which is extraordinary relief and is extendable to a person who is prima facie implicated in the case falsely on account of malafide. As against it, there is no malafide on the part of the complainant to implicate the applicants. However, since other applicants have been assigned the injuries which are bailable in nature and in bailable offence, bail is right of the accused. Therefore, while dismissing application of applicant Muhammad and recalling his ad-interim pre-arrest bail granted to him vide order dated 03.04.2023, the ad-interim pre-arrest bail already granted to applicants Mir Muhammad alias Miru, Gul Muhammad and Riaz Ali vide order dated 03.04.2023 is hereby confirmed on the same terms and condition.

06. The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE

Ali Haider