

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Criminal Bail Application No.S-363 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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19.06.2023

M/s Fayaz Ali Talpur and Muhammad Zainuddin Baloch advocates for applicants along with applicants on ad-interim pre-arrest bail.

Complainant present in person.

Ms. Safa Hisbani, Assistant Prosecutor General along with IO/ASI Muhammad Mubeen PS Khan Mirpurkhas.

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MUHAMMAD IQBAL KALHORO, J.- This FIR was registered only after complainant succeeded in obtaining directions on her application u/s 22-A & B CrPC. She has alleged that on account of a dispute over house, applicants armed with hatchets and lathies came to her house situated in Deh 98 Taluka Hussain Bux Mari on 13.03.2023 at about 0900 hours, caused lathi blows to her son Shah Baig, occupied her house, took away cash of Rs.98,000/- available there, one rifle K53388, one double barrel gun A-2515 and other household articles.

2. Learned defense counsel submits that applicants are innocent and have been falsely implicated in this case; there is delay of 16 days in registration of FIR; no specific role has been assigned to any of the applicants; co-accused Muhammad Khan has been granted bail and there is a long history of litigation between the parties, therefore, false implication of the applicants cannot be ruled out.

3. On the other hand, learned Assistant PG and complainant herself present in court have opposed bail.

4. I have considered submissions of the parties and perused material available on record. The delay in FIR has been explained by the complainant in that it was registered only after direction by the Justice of Peace. IO is present and in reply to certain queries has failed to tell any investigation regarding allegations of

occupation of house of complainant and theft from it allegedly by the applicants. Learned Assistant PG has confirmed that only stereotype report of investigation has been incorporated in the Challan by the IO, and he has failed to attend to the allegations of illegal occupation of the house of the complainant or theft from it by the applicants. Apart from that, and which prima facie shows favourable investigation of police to the applicants, the injury sustained by victim Shah Baig at the hand of applicants is 337-F(vi), fracture and dislocation of bone, is punishable up to 07 years. Presence of enmity between the parties or pending litigation would not make the case of applicants to be of any better either. For the enmity is a double edged weapon and it cuts both the ways. Allegations of causing injury to victim are supported by the medical certificate, to boot. Therefore, applicants are not entitled to concession of pre-arrest bail which is extraordinary in nature and is extended to a person who is innocent and falsely implicated in a non-bailable offence to save him from arrest.

5. Accordingly, this application is dismissed and applicants ad-interim pre-arrest bail granted to them vide order dated 14.04.2023 is hereby recalled. Before parting with this order, it may be stated that it is apparent that IO has misconducted himself by not properly investigating the matter and favoring the accused. Therefore, his case is referred to the SSP Mirpurkhas to initiate an enquiry against him for ostensibly conducting a faulty investigation and damaging the case of complainant and take action against him according to law.

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

JUDGE