

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Criminal Bail Application No.S-29 of 2023

<u>DATE</u>	<u>ORDER WITH SIGNATURE OF JUDGE</u>
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03.04.2023

Mr. Badal Gahoti advocate for applicants along with applicants on ad-interim pre-arrest bail.

Mr. Abdul Waheed Bijarani APG along with SIP Moula Bux Chandio PS Kazi Ahmed.

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MUHAMMAD IQBAL KALHORO, J.- on 09.12.2022 at 02:00 pm when complainant, court's bailiff posted in the court of 2nd Senior Civil Judge Nawabshah went to the land survey No.643/3 Taluka Kazi Ahmed District Nawabshah for getting it vacated in compliance of a judgment and decree of civil court along with government officials including police officials and Mukhtiarkar Taluka Kazi Ahmed Shah Murad Tunio and other revenue officials, they were attacked by the accused residing over the said land. This assault was so intense that complainant party had to flee from the spot after sustaining injuries. But before that the complainant party had identified the persons who had assaulted them and has given names of at least 33 persons in this regard in FIR. Applicants' names are mentioned in FIR which was registered on the same day at about 1730 hours.

2. Learned defense counsel has argued that applicants are innocent and have been falsely implicated on account of political enmity; no specific role has been assigned to the applicants and the complainant out of ulterior motive has booked entire village in FIR; the injuries sustained by the complainant party are minor in nature, mostly bailable; applicants are entitled to the grant of pre-arrest bail; in investigation applicants Ishtiaque Ali and Muhammad Hashim have been exonerated by the Investigating Officer on the basis of defense evidence that they were not present.

3. On the other hand learned Assistant PG has opposed bail to applicants stating that applicants are specifically nominated in FIR.

4. I have considered arguments of parties and perused material available on record. In my humble view, the applicants are not entitled to extraordinary concession of pre-arrest bail. For the reasons, applicants are nominated in FIR with specific role of launching an attack upon the complainant party comprising court officials, police officials and revenue officials and desisted them from performing official duty. The case does not only revolve around causing injuries to the complainant party. But resisting illegally the execution of judgment and decree of the court. Further in order to achieve that object, the applicants along with co-accused launched a murderous attack upon the complainant party, who apparently had no ill will or mala fide against them being government officials. Prima facie, by their illegal act they were successful in halting a legal process of vacating the land in compliance of the court order.

5. In the circumstances, no case for pre-arrest bail, meant only to protect an innocent person who per record has been falsely implicated, has been made out. Effect of release of applicants Ishtiaque Ali and Muhammad Hashim by the Investigating Officer on the basis of defense evidence in contrast to the evidence of the prosecution which has fully implicated them in the case is yet to be appreciated by the trial court. Since prima facie they appears to be involved having been nominated in FIR which has been further supported by the statements of the witnesses u/s 161 CrPC, they do not appear to be entitled to the concession of pre-arrest bail either. This being the position, I do not see merit in this application which is accordingly dismissed and ad-interim pre-arrest bail granted to the applicants vide order dated 06.01.2023 is hereby recalled.

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

JUDGE