

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Cr. Bail Application No.1809 of 2023

DATE

ORDER WITH SIGNATURE OF JUDGES

For hearing of Bail application

17.10.2023:

Mr. Karamullah Qureshi Advocate along with Applicants on bail
Mr. Saeed Ahmed Magsi, Advocate for the Complainant
Mr. Muhammad Iqbal Awan, Additional Prosecutor General for
the State

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Omar Sial, J. Applicants Mehan Khan and Ghulam Sabbir have sought pre-arrest bail in crime number 387 of 2023 registered under sections 147, 148, 149, 337-F(vi) P.P.C. at Steel Town police station in Karachi. Earlier, the applicants were granted interim pre arrest bail on 17.07.2023 by the learned 5th Additional Sessions Judge, Malir, Karachi, which was subsequently dismissed vide order dated 09.08.2023.

2. Briefly, the facts of the case are that the aforementioned F.I.R. was registered on 12.07.2023, on the complaint of one Muhammad Sharif who reported that on 25.06.2023 at about 1130 hours, he was present in his hose situated at Mian Khan Goth, Filter Plant, Steel Town, Karachi, where accused Shah Murad, Shabbir, Main Bux, Muhammad Ishaque, Yar Ali Khoso alongwith 15 unknown accused persons assaulted upon the complainant and beaten him with iron rods and dandas, resultantly he sustained severe injuries and when his family member tried to rescue him, accused persons also beaten them. During scuffling two mobile phones of complainant, ear rings of his children and cash of Rs.27500/- were also misplaced. The

complainant after taking treatment lodged the FIR against accused persons.

3. I have heard the learned counsel for the Applicant as well as learned Assistant Prosecutor General for the State who was assisted by the learned counsel for the complainant.

4. Learned counsel for the Applicants contends that this is a false case filed with malafide to pressurize the applicants. Counsel contends that the real issue is that the applicants are the owner of a house which has been illegally occupied by the complainant and he is not ready to vacate the house. At this preliminary stage malafide on the part of the complainant cannot conclusively be ruled out.

5. The primary punishment prescribed for an offence under section 337-F(vi) is the payment of daman. Imprisonment may accompany at the discretion of the Court. Although not bailable, even if imprisonment under this section is given the period of such an imprisonment extends to seven years thus falls within the non-prohibitory clause of section 497 Cr.P.C. Keeping in view the nature of injury sustained by the complainant the offences although not bailable, fall within the non-prohibitory clause of section 497 Cr.P.C., Keeping in view the principles enunciated in the Tariq Bashir and 5 others vs The State (PLD 1995 SC 34) in mind, I do not find any exceptional or extraordinary reasons to deny the applicant bail.

5. In view of the above, the interim pre-arrest bail earlier granted to the applicants is confirmed on the same terms and conditions.

JUDGE