

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No.S-231 of 2023

(*Ali Hyder Oghai Vs. The State*)

For hearing of Bail Application

23-10-2023.

Mr. Ali Ahmed Khan, advocate for the applicant.

Mr. Shafi Muhammad Mahar, Deputy P.G for the State.

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Irshad Ali Shah, J;- It is alleged that the applicant with rest of the culprits after having formed an unlawful assembly in prosecution of its common object, not only committed murder of Mst. Nazan, Mouj Ali and Mughal, but caused fire shot injuries to PWs Soz Ali, Laal Jan and Mst. Beebul with intention to commit their murder and then went away by committing mischief by causing fire shot injuries to three buffalos and one dog of the complainant party, for that the present case was registered.

2. The applicant on having been refused pre-arrest bail by learned Vth Additional Sessions Judge, Sukkur, has sought for the same from this Court by way of instant Bail Application u/s 498 Cr.P.C.

3. Heard arguments and perused the record.

4. The FIR of the incident has been lodged with delay of 17 hours; it was night time incident and the role attributed to the applicant in commission of incident is only to the extent that he committed mischief by causing fire shot injuries to buffalos and dog of the complainant party; such role even otherwise was general in

nature. The parties are already disputed. In these circumstances, a case for grant of pre-arrest bail to the applicant on point of further inquiry and malafide obviously is made out; such concession could not be denied to the applicant on point of absconsion alone.

5. In case of *Mitho Pitafi vs. The State* (2009 SCMR 299), it has been held by Honourable Apex Court that;

*“----S. 497---Penal Code (XLV of 1860), Ss.302/324---
Constitution of Pakistan (1973), Art.185(3)---It is
well-settled principle of law that bail can be granted if
an accused has good case for bail on merit and mere
absconsion would not come in way while granting the
bail.”*

6. In view of above, interim pre-arrest bail already granted to the applicant is confirmed on same terms and conditions.

7. The instant Crl. Bail Application is disposed of accordingly.

Judge