

**THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD**

Criminal Bail Application No.S-518 of 2023

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DATE ORDER WITH SIGNATURE OF JUDGE

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For orders on office objections.  
For hearing of main case.

05.07.2023.

Mr. Pervaiz Tariq Tagar advocate for Applicants.

Mr. Imtiaz Ali Abbasi advocate for complainant.

Ms. Safa Hisbani Assistant Prosecutor General, Sindh.

Applicants are present on ad-interim pre-arrest bail.

Complainant is present in person.

**ORDER**

**MOHAMMAD ABDUR RAHMAN, J:** This application under Section 498 of the Code of Criminal Procedure, 1898 has been maintained by five Applicants namely Ali Gohar, Abdul Razak, Gul Hassan, Tarique Ali, and Sarfraz, seeking pre-arrest bail, in Crime No.75/2023 registered under Sections 324, 114, 147, 148, 504, 337-A(i), 337-F(i) of the Pakistan Penal Code, 1860, at Police Station Sehwan, District Jamshoro.

2. The facts of this Application are not disputed. Initially the Applicant No.1 i.e. Ali Gohar filed an application under Section 22-A (6) (i) of the Code of Criminal Procedure, 1898, for the registration of an FIR against Muhammad Fazul, Rashid Ali, Naveed Ali, Ghulam Akbar, Mushraf Ali, Kazbano, Saima and Razia on the basis that they were trying to trespass on an immovable property. The said application was dismissed.

3. Thereafter, on 30 April 2023 the present incident took place over the ongoing dispute as between Muhammad Fazul (hereinafter referred to as the "Complainant") and the Applicants in respect of an immovable property situated at Miyani Areesara near Bubak, Deh Fazlani Sehwan. On the said date it is alleged that Applicants along with the co-accused Habibullah, Nabi Bux and Mashooque Ali were involved in an incident with the Complainant and his sons whereby the Complainant and his sons were subjected to a physical attack resulting in them being injured and in respect of which an FIR

was registered where the Applicants and the Co-accused were in that FIR assigned the roles as indicated below:

S.No.	Name of accused	Role assigned
1.	Ali Gohar	Armed with a pistol shot at the Complainant which missed and thereafter grabbed a Hatchet from Gul Hasan and hit the Complainant on the head with the Hatchet. Ali Gohar also instigated all the others to attack the Complainant party and kill them
2.	Abdul Razzaque	Carrying a hatchet hit the Complainant on the head with the Hatchet but which the Complainant blocked with his arm causing the hatchet to hit the Complainant on his arm
3.	Gul Hasan	Having a Hatchet
4.	Tarique Ali	With an iron rod hit the Complainant son Rashid on his left arm
5.	Sarfaraz	Carried a hatchet and at the end of the incident attacked the Complainant and his sons
6.	Nabi Bux	With a Lathi at the end of the incident attacked the Complainant and his sons
7.	Mashooque	With a Lathi and at the end of the incident attacked the Complainant and his sons
8.	Habibullah	With an Iron Rod attacked the complainant son Naveed

In summary the incident resulted in physical injuries being inflicted on the Complainant by the Applicants Ali Gohar and Abdul Razzaq and by a co-accused Habibullah on the son of Complainant Naveed and by the Applicant Tariq on the son of the Complainant namely Rashid. The Injuries to the Complainant and his sons have been verified by Medico-Legal Officer and corroborate the narration that has been made by the Complainant in the FIR

4. An Application under Section 498 of the Code of Criminal Procedure, 1898 was filed before the Additional Sessions Judge Sehwan bearing Criminal Bail Application No.93 of 2023 which was dismissed by that Court on 22 May 2023.

5. Counsel for the Applicants states that the incident occurred was on account of a civil dispute over a plot which escalated into the incident and whereby injuries were also suffered by female members of family of the Applicants which have also been verified in Medical Reports and whereby he alleges that the Complainant side was the aggressor. He stresses that after the date of incident he maintained a second application under Section 22-A (6) (i) of the Code of Criminal Procedure, 1898, before the Additional Sessions Judge/ Ex-Officio Justice of Peace, Sehwan which was disposed of on 21 March 2023 directing the SHO to act in accordance with law. He further states that there is clear mala fide in this matter as the Complainant has political connections which resulted in the registration of the FIR against the Applicants. He further contends that all the offences are bailable except

Section 324 of the Pakistan Penal Code, 1860 and that the injuries attributed to the Applicants were not life threatening and therefore the Applicants are entitled for pre-arrest bail.

6. Counsel for complainant and learned Assistant Prosecutor General both argue that the circumstances that have been outlined by counsel for the Applicants do not merit the concession of pre-arrest bail and the circumstances of post-arrest bail cannot be agitated in an application for pre-arrest bail.

7. I have heard learned counsel for the parties and perused the material available on record. It is admitted by the Applicants that there was a civil dispute as between the Applicants and the Complainant over an immovable property which itself negates any involvement of the FIR being registered with mala fide at the behest of the Complainant through "politically connected" people in this matter. The evidence that is brought on record in terms of the recovery as well as the medical reports support the allegations made in the FIR and corroborate the version of Complainant. There being no question of any other mala fide I am of the opinion that no case for the grant of pre-arrest bail is made out and for which reasons I had dismissed this Application on 5 July 2023 and the foregoing are the reasons for that order. Accordingly, this bail application is dismissed and ad-interim pre-arrest bail granted to the Applicants by the order dated 24 May 2023 is recalled and for which. Needless to say, the observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE

Hyderabad 4 August 2023

Irfan Ali