

**Order Sheet**  
**IN THE HIGH COURT OF SINDH,**  
**BENCH AT SUKKUR**

Crl. Bail Application No.S- **623** of 2023  
(*Ghulam Farooq & another v. The State*)

Crl. Bail Application No.S- **655** of 2023  
(*Rizwan Mahar v. The State*)

Date of hearing	Order with signature of Judge.
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1. For orders on office objections.
2. For Hearing of Bail Application

**01-12-2023**

Mr. Amanullah G. Malik, Advocate for applicants along with applicants in Crl.B.A.No.S-623 of 2023.

Mr. Gul Mir Jatoi, Advocate for complainant.

Mr. Zulfiqar Ali Jatoi, Additional P.G for the State.

**ORDER**

**MUHAMMAD IQBAL KALHORO, J.-** As per FIR, there is a dispute between parties over agricultural land. On 13.06.2023, when complainant, his sons Nadeem Ahmed, Rehmatullah and Naheed were present on their land, situated near village Warayo within jurisdiction of P.S, Tamachani, applicants along with other co-accused accosted them. No sooner they came than they started abusing complainant party and asked them to vacate the land. When complainant party resisted, applicants, who were armed with different weapons including hatchet, lathies and pistols attacked complainant party injuring four PWs, namely, Naheed, Nadeem Ahmed, Rehmatullah and Amanullah (the complainant himself). On cries of complainant party, the accused party left and thereafter complainant approached police for a letter, from there along with injured went to Government Hospital, Bagerji for treatment and from where they were referred to Civil Hospital, Sukkur. After getting first aid and treatment, complainant on 18.06.2023 appeared at P.S and registered the FIR.

2. Learned counsel for applicants submits that applicants are innocent and have falsely been implicated in this case; that there is on-going dispute between the parties over agricultural land and in fact it was free fight between the parties in which both parties received injuries, but at the instance of Nekkards, who assured them for a resolution of dispute, accused party did not approach the police for registration of FIR, whereas on 4<sup>th</sup> day, complainant party got FIR registered against applicants. Learned counsel has relied upon case law reported as *Toto v. State* (**2017 CrLJ 239**) to support his arguments.

3. Learned counsel for complainant and Additional P.G have opposed bail to the applicants on the ground that all three applicants have been assigned specific roles, hence they are not entitled to bail.

4. I have considered submissions of parties and perused material available on record. Applicant Ghulam Farooq is said to have caused hatchet injuries to PW-Rehmatullah causing him, amongst others, an injury under section 337A(vi) PPC, punishable for ten years, applicant Muhammad Siddique is said to have caused injuries to complainant Amanullah, one of the injury amongst others, is under section 337F(iv) PPC punishable for five years, applicant Rizwan has caused an injury to Naheed opined by Medico-legal Officer as 337A(vi) PPC, punishable for ten years. The nature of injuries and the number of injured show that applicants appeared at the spot with a pre-determined mind and inflicted severe and several injuries to at least four PWs. Not only individual role but collective approach of the applicants is a reflection of their intention to cause as much damage to the complainant party as possible and in exercise of such intention in fact severally beat the complainant party.

5. The I.O has also concluded in investigation that applicants are guilty of the offence and has referred them for a trial. No doubt, there is admitted enmity between the parties, but it cuts both the ways. If the complainant has a motive to implicate the accused on account of the enmity, then the accused has also a cause to wrong the complainant party. Therefore, unless the dispute is finally decided by the trial Court,

nothing favourable could be opined as far role of the applicants, who appears to be connected with the crime, is concerned. As to delay, the record shows that on the very day complainant had approached the police and got a letter for treatment of the injured. It was the police who did not perform their duties and registered the FIR then and there, and let the complainant leave P.S and come back after four days. Complainant has further explained that initially they were referred to government hospital, Bagerji and from where they were sent to Civil Hospital, Sukkur for treatment and after getting treatment, he lodged FIR.

6. The injuries caused by applicants to injured, *prima facie*, are serious in nature, punishable upto ten years in most cases. The case has recently been challaned. Therefore, in my view, it would be in the interest of justice to let the trial Court frame the charge and examine material witnesses first, after which the applicant Rizwan, who is under custody, can move a fresh bail application before the trial Court. Applicants Ghulam Farooq and Siddiquie are seeking pre-arrest bail without showing any mala fide on the part of complainant to falsely implicate them. The concession of pre-arrest bail is only for innocent persons, who from the face of record appear to be falsely implicated in a non-bailable offences to save them from arrest, which is otherwise requirement of law.

7. I, therefore, do not find the applicants to be entitled for concession of pre-arrest bail and post-arrest bail. Accordingly, both bail applications are **dismissed** and the order granting interim pre-arrest bail to the applicants in Crl. B.A.No.S-623 of 2023 by this Court is recalled. The observations made hereinabove are tentative in nature and shall not influence the trial Court while deciding the case on merits.

These bail applications are **disposed of** accordingly. *Office to place a signed copy of this order in captioned connected matter.*

**JUDGE**