

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1072 of 2023

Applicants : i. Muhammad Moosa
ii. Mehboob
iii. Shafi
iv. Aslam
v. Azam
vi. Allah Bachayo
vii. Abdul Qadir
viii. Ibrahim
ix. Saleem
x. Muhammad Hassan
xi. Gul
xii. Ameer
xiii. Ali Hassan
xiv. Javed
xv. Sikander
xvi. Rafique
Through Mr. Muhammad Ashraf Samo,
Advocate

Respondent : The State
Through Mr. Abrar Ali Khichi,
Addl. Prosecutor General, Sindh

Date of hearing : 15.08.2023

Date of order : 15.08.2023

ORDER

AMJAD ALI SAHITO, J – Through the instant bail application, applicants/accused seek pre-arrest bail in Private Complaint No.19/2022 U/s 3, 4 R/w Section 8 of I.D.A., 2005, after their bail has been cancelled vide order dated 28.04.2023 passed by the learned IInd Additional Sessions Judge, Thatta.

2. The details and particulars of the FIR are already available in the memo of bail application and FIR, which can be gathered from the copy of FIR attached with the application, hence, needs not to reproduce the same hereunder.

3. Per learned counsel, in fact a Private Complaint bearing No.19/2022 was lodged by Allah Bachayo under Section 3,4 R/w Section 8 of I.D.A., 2005 in the year 2022 and thereafter, notices were issued, as such, applicants/accused sought for bail which were granted to them; that unfortunately they were absent on one date as such their bail was cancelled. He further submits that after the cancellation of bail, he moved an application under Section

75(ii) Cr.P.C. which is still pending. He lastly prays for confirmation of bail to the applicants/accused.

4. On the other hand, learned Addl. P.G. opposes for confirmation of bail.

5. Heard the parties and perused the material available on record.

6. Admittedly, this is an illegal dispossession complaint filed by one Allah Bachayo which was admitted and thereafter, accused were attending the Court. However, on one date they were called absent as such, the learned Judge cancelled their bail without even issuing notice to the surety. Therefore, they have filed the instant bail application to seek pre-arrest bail.

7. In view of the above stated position and since learned trial Court did not issue notice to the applicants and their surety while dismissing the bail of the applicants, as such, the impugned order dated 28.04.2023 is set aside. Resultantly, the instant bail application is allowed. The pre-arrest bail granted to the applicants/accused vide order dated 18.05.2023 is hereby confirmed on the same terms and conditions. Applicants/accused are directed to attend the trial as and when required. However, it is made clear that if the applicants/accused misuse the concession of bail, learned trial Court would be at liberty to take appropriate action.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicants on merits.

JUDGE

Kamran/PA