

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.1439 of 2023

Applicants : i. Tanveer Shahzad
ii. Abdul Rasheed
iii. Sikandar Ali
iv. Muhammad Hashim
v. Najeeb Rehman
vi. Ali Nawaz @ Ali Shaikh
Through M/s. Altaf Hussain & Allah
Bakhsh Narejo, Advocates

Complainant : Muhammad Aftab Hanif
Through Mr. Gul Hassan Hab, Advocate

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

Date of hearing : 17.08.2023

Date of order : 17.08.2023

ORDER

AMJAD ALI SAHITO, J – Through the instant bail application, applicants/accused seek pre-arrest bail in Crime No.579/2023 U/s. 147, 148, 149, 324, 436, 506 PPC at PS SSHIA, after their bail has been declined vide order dated 26.06.2023 passed by the learned Additional Sessions Judge-VII, Malir Karachi.

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 for the applicants, applicants/accused are innocent and have falsely been implicated in this case; that in fact the applicants are the focal person of Sindh Katchi Abadai Authority and lodged an FIR bearing Crime No.571/2023 at PS SSHIA against the complainant party; that the FIR is delayed about 10 hours; that claim of the complainant is that the accused persons came there and attacked upon him and set fired one motorcycle but surprisingly, the said motorcycle was not recovered from the place of incident at the time of site inspection, instead it was handed over to the I.O. after a delay of 22 days; that such memo of inspection has been read over to the I.O. and the same is available on record; that no specific role has been assigned against

the applicants/accused but the role is general in nature; that the applicants/accused are attending the Court and are no more required for further investigation. He lastly prays for confirmation of bail to the applicants/accused.

4. On the other hand, Mr. Gul Hassan Hab, Advocate files Vakalatnama on behalf of the complainant and argues that the names of the applicants/accused transpire in the FIR with specific role that they had attacked upon the complainant party, resultantly the complainant received severe injuries so also set fire one motorcycle available at the place of incident. He further contends that accused Tanveer admitted his guilt saying that they were present at the place of incident when the complainant came and they fought with him, as such, they are very much involved in this case. Learned Addl. P.G. opposes for confirmation of bail on the ground that the accused persons have attacked the complainant as such he received multiple injuries, but one of which has been declared under Section 337(a)(iv) PPC. However, learned Addl. P.G. admits that the allegation against the applicants/accused is general in nature.

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

6. From perusal, it reflects that on the relevant day near about 10 to 15 persons attacked upon the complainant party, as a result, he received multiple injuries. However, as per medical certificate, all the injuries are bailable except the one which falls under Section 337(a)(iv) PPC. Further, no specific role has been attributed against each applicants/accused as to how they were involved in causing injuries to the complainant. The claim of the applicants is that it is a counter FIR against them as they already lodged an FIR No.571/2023 against the complainant over the dispute of plot. I.O. present in Court admits that he has not secured the burnt motorcycle on very same day but after 22 days of the incident, the said motorcycle was produced before him, however, he has failed to give any cogent reason. At bail stage, only a tentative assessment is to be made and deeper appreciation is not permissible under the law. Learned counsel for the applicants pleaded malafide on the part of the complainant that due to dispute over the plot, the complainant involved 10/15 persons in this case.

7. In view of the above, learned counsel for the applicant has successfully made out a case for grant of bail in subsection 2 of Section 497 Cr.P.C. Resultantly, the instant bail application is **allowed**. The pre-arrest bail granted to the applicants/accused vide order dated 03.07.2023 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.

Kamran/PA

JUDGE