

Order Sheet

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Bail Appln: No.S-817 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
------	----------------------------------

For orders on office objection
For hearing of main case

04.09.2023

Applicants are present on bail.
Mr. Muhammad Saleem advocate holds brief for Mr. Shahnawaz Ali advocate for applicants.
Ms. Rameshan Oad, A.P.G. for the State.
M/s. Fakhur Din Dahraj and Seema Khoso advocates for the complainant.

ZULFIQAR ALI SANGI, J :- Through this bail application, applicants Danish Naseer and Asif Naseer both sons of Naseer Ahmed seek their pre-arrest bail in Crime No.71 of 2023, registered at PS Digri for offences under sections 506(2), 337-A(i), 337-F(i), 147, 148,149, 337-H(ii), 337-F(iv),337-L(ii) and 504, PPC. After their bail application was declined by learned trial Court vide order dated 31.07.2023.

2. Since the facts of the prosecution case are already mentioned in F.I.R as well impugned order, therefore, there is no need to reproduce the same.

3. Learned counsel for applicants submits that applicants being innocent have been falsely implicated in this case by the complainant with malafide intention; that FIR is belated by two days without any plausible explanation, while police station is too near from the place of incident; that co-accused Danish Malik moved an application to SSP Mirpurkhas against the complainant party on 02.11.2021 regarding such matter, but later on, complainant due to annoyance managed the false story and involved the applicants in this false case; that complainant lodged FIR against applicants just to harass and blackmail to them; that all PWs are interested and set-up by the complainant, as there is no any independent witness of the alleged offence. He lastly submits that the offence with which applicants are charged does not fall within prohibitory clause of section 497, Cr.P.C and applicants are on interim pre-arrest bail and they are regularly attending the trial

Court, therefore, he prayed for confirmation of interim pre-arrest bail of the applicants.

4. On the other hand, learned A.P.G appearing on behalf of the State and counsel for the complainant opposed the confirmation of interim bail of the applicants on the grounds that applicants are nominated in FIR with specific role of causing injuries to the injured, hence they are not entitled for the confirmation of interim pre-arrest bail.

5. Heard and record perused with their able assistance.

6. The record reflects that per MLC only injury attributed to the present applicants/accused as 337-F(iv), PPC for which, the punishment is provided five years, which does not fall within the prohibitory clause of section 497, Cr.P.C and the injury so sustained are on non-vital part of the body. The F.I.R. is delayed for about two days and no plausible explanation has been given by the complainant for such delay. In this case, it is amazing to note that per FIR, applicant Danish was having pistol in his fold of shalwar, but he caused kicks blows to the complainant party and this aspect of the case will be thrashed out after recording evidence before the trial Court. Learned counsel for the applicants pleaded malafide on the part of complainant that after arranging the medical certificate he has lodged false F.I.R. against them. The accused/applicants are attending the trial Court regularly and there is nothing on record to show that they misused the concession of bail. The case has already been challaned before the competent Court of law and applicants are no more required by the police for further investigation. At bail stage, only tentative assessment is to be made. In view of above circumstances, the applicants have made out a case of further inquiry entitling them for confirmation of interim pre-arrest bail. Resultantly the instant bail application is allowed and ad-interim pre-arrest bail earlier granted to the applicants vide order dated 03.08.2023 is hereby confirmed on the same terms and conditions.

7. The applicants, who are present on interim bail has been confirmed as above, are directed to attend the learned Trial Court

regularly if they fail to appear, the Trial Court would be at liberty to take action against them in accordance with law.

8. Needless to mention here that the observations made hereinabove are tentative in nature and will not prejudice the case of either party at the time of trial.

9. This bail application stands disposed of in the above terms.

JUDGE