

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.684 of 2023

Applicants : i. Muhammad Hashim S/o Ali Ahmed
ii. Ayaz S/o Abdullah

Complainant : Mst. Khadija W/o Ashraf Ali
Through Mr. Muhammad Piyar Ali Soomro,
Advocate

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

Date of hearing : 06.09.2023

Date of order : 06.09.2023

ORDER

AMJAD ALI SAHITO, J - Through this bail application, applicants/accused seek pre-arrest bail in FIR No.88/2023 U/s. 324, 34 PPC at PS Ibrahim Hyderi, after their bail plea has been declined by the learned VIIth Addl. Sessions Judge, Malir vide order dated 22.03.2023.

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. Applicant Muhammad Hashim is present and requests for condonation of absence of applicant Ayaz on the ground that he is unwell. His absence is condoned. Learned counsel for the applicants is also called absent. From perusal of record, it reflects that the instant bail application was presented on 29.03.2023 and on the same day, the matter was fixed before this Court when the applicants were granted interim pre-arrest bail and thereafter no progress has been made. In such circumstances, learned Addl. P.G. is directed to read over the FIR. After reading the same, the applicant Muhammad Hashim submits that there is a dispute between the parties as such false FIR has been registered against him and accused Ayaz. He further submits that the FIR is delayed about two days for which no plausible explanation was given by

the complainant and they have been implicated in this case with malafide intention and ulterior motives.

4. On the other hand, learned counsel for the complainant vehemently opposes for confirmation of bail on the ground that the name of the applicants transpire in the FIR as they are involved in the commission of offence. He further submits that Section 324 PPC is very much applicable in this case. Learned Addl. P.G. also opposes for confirmation of bail.

5. Heard and perused. Admittedly, though the name of the applicants appear in the FIR but no specific role has been assigned against accused Ayaz; however, the role attributed against the applicant Muhammad Hashim is that he has given knife blue on the chest of the complainant. But as per medical certificate, the injury declared by the doctor falls under Section 337(f)(i) PPC which is bailable offence. However, it is yet to be determined at trial whether Section 324 PPC can be applicable in this case. Further, the charge has been framed in this case and now the case is fixed for evidence. Since the applicants are attending the Court and are not misusing the concession of bail by repeating the such offence, therefore, the applicants have made out case for grant of bail in terms of subsection 2 of Section 497 Cr.P.C. Resultantly, the instant bail application is allowed. The pre-arrest bail granted to the applicants vide order dated 29.03.2023 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.

6. 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