

THE HIGH COURT OF SINDH KARACHI

Cr. Bail Appl. No. 2068 of 2023
Cr. Bail Appl. No. 2018 of 2023

For hearing of Bail Applications.

Bail Appl. 2068/2023 : Ubedullah @ Naveed son of Saeed-u-llah.

Bail Appl. 2018/2023 : Muhammad Salim son of Muhammad Israel, present on interim pre-arrest bail.

For the Applicants : Mr. Noor Muhammad Dayo, Advocate.

For the Complainant : Muhammad Hassan through Mr. Nasir Ahmed, Advocate.

The State : Through Mr. Siraj Ali Khan Chandio, Additional Prosecutor General Sindh.

Date of hearing : 10-10-2023

Date of order : 10-10-2023

FIR No. 855/2023
u/s: 337-F(vi), 337-A(i), 506-B PPC
P.S. Zaman Town, Karachi

ORDER

Adnan Iqbal Chaudhry J. - In the aforesaid crime the applicant of Criminal Bail Application No. 2068/2023 seeks post-arrest bail, whereas the applicant in Criminal Bail Application No. 2018/2023 seeks pre-arrest bail.

2. Allegedly, the applicants along with unknown persons attacked the Complainant and his brother Imran while they were standing outside their house and inflicted upon them injuries with *dandas*, fists and kicks. The incident took place on 23-06-2023 which was entered by the police in the *roznamcha* upon issuing a letter for treatment of injuries. The FIR was eventually lodged on 24-04-2023 upon production of a final medical report.

3. Heard learned counsel, the APG Sindh and perused the record.
4. In the FIR the Complainant alleged that the injuries were inflicted with *dandas*, kicks and fists, but while giving his statement to the I.O. the Complainant further alleged that the accused persons were armed with firearms and also inflicted injuries by the butts of those firearms, hence the addition of section 506-B PPC in the challan. This further allegation of firearms during the investigation comes across as an improvement made by the Complainant as an afterthought and does not inspire confidence.
5. It appears that the applicants were known to the Complainant, hence identified by them. Counsel for the applicants too states that they reside in the same building as the Complainant. However, the FIR is completely silent as to the reason or motive for the alleged attack.
6. The report of the MLO classifies injuries received by the Complainant as *shajjah-i-khafifah* and *shajjah-i-mudihah* punishable respectively under sections 337-A(i) and 337-A(ii) PPC primary with *daman* and *arsh*, and for which imprisonment up to 2 and 5 years respectively may or may not follow. As regards the Complainant's brother Imran, the fracture of a finger of his hand was classified as *ghayr-jafah munaqqilah*, punishable under section 337-F(vi) PPC primarily with *daman*, and for which imprisonment up to 7 years may or may not follow. It is not alleged that the applicants are previous convicts or hardened criminals so as to necessarily attract punishment of imprisonment as envisaged in sub-section (2) of section 337-N PPC.
7. The offence of section 337-A(i) PPC alleged against the applicant Ubedullah is bailable. Though the offence under section 337-A(ii) PPC is non-bailable, it does not fall within the prohibitory clause of section 497 CrPC. Same goes for the offence of section 337-F(vi) PPC alleged against the applicant Muhammad Salim. As regards the offence alleged under section 506-B PPC, that appears to have been added in the challan to buttress the FIR.

8. Therefore, the case against the applicant Ubedullah is clearly one of further inquiry, falling within the ambit of sub-section (2) of section 497 CrPC. As regards to the applicant Muhammad Salim who seeks pre-arrest bail, the improvement made by the Complainant during investigation by attributing firearms, coupled with the fact that none of the injuries have been exclusively attributed to him, demonstrates *malafides*.

9. Therefore, for the foregoing reasons, the applicant Ubedullah @ Naveed in Criminal Bail Application No. 2068/2023 is granted post-arrest bail subject to furnishing solvent surety in the sum of **Rs. 50,000/- [Rupees Fifty Thousand only]** alongwith P.R. Bond in like amount to the satisfaction of the Nazir of this Court; and the interim pre-arrest bail of the applicant Muhammad Saalim in Criminal Bail Application No. 2018/2023 is confirmed subject to furnishing solvent surety in the sum of **Rs. 50,000/- [Rupees Fifty Thousand only]** alongwith P.R. Bond in like amount to the satisfaction of the Nazir of this Court.

Needless to state that the observations above are tentative and shall not be construed to prejudice the case of either side at trial.

JUDGE

SHABAN*