

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT
HYDERABAD

Cr. Bail Application No.S-576 of 2023
Cr. Bail Application No.S-857 of 2023

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| DATE | ORDER WITH SIGNATURE OF JUDGE(S) |
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Date of Hearing : 28.08.2023
Date of Order : 28.08.2023

Mr. Mian Taj Muhammad Keerio, Advocate for Applicants.
Mr. Dilbar Khan Laghari, Advocate for complainant.
Ms. Safa Hisbani, Assistant P.G Sindh.

ORDER

ARSHAD HUSSAIN KHAN, J.- By this common order, I intend to dispose of the above captioned bail applications whereby applicant Muhammad Iqbal seeks post arrest bail and applicants Muhammad Moosa and Muhammad Bilal, who are present on ad-interim pre-arrest bail, seek pre-arrest bail in Crime No.35 of 2023 registered at Police Station Jhol District Sanghar for offences under Sections 324, 337-A(i), 337-F(i), 504, 34 PPC.

2. The allegations against the accused party are that applicant Muhammad Iqbal made fire from his weapon upon complainant's son Anwar Ali who received bullet injury; whereas, applicants Muhammad Moosa and Muhammad Bilal caused lathi blows to complainant's son Asif Ali on his head and backside of his body, for which F.I.R was lodged.

3. Learned Counsel for the applicants contends that applicants have been involved in this case falsely and with ulterior motives on account of enmity over passage / way to their agricultural land; that FIR is delayed for about seven hours without any plausible explanation; that all sections are bailable except Section 324 PPC which requires further inquiry as no repetition of fire was made by applicant

Muhammad Iqbal. He further submits that applicants Muhammad Moosa and Muhammad Bilal have not misused the concession of bail granted to them by this Court. He; however, prays that all the applicants may be admitted to bail. In support of his arguments learned counsel has relied upon the cases of TARIQ BASHIR and 5 others v. The STATE (PLD 1995 SC 34), Mst. LUBNA BIBI v. AZHAR JAVED ABBASI and another (2022 SCMR 946), MUHAMMAD UMAR v. The STATE and another (PLD 2004 SC 477) and KAMRAN KHAN v. The STATE and another (2021 P.Cr. L.J 1643).

4. Learned Counsel for complainant opposes the bail applications on the ground that accused Muhammad Iqbal has been assigned specific role of causing fire arm injury to son of complainant; whereas, other accused have caused lathi blows to PW / inured; therefore, they do not deserve any leniency in the shape of bail. He also submits that delay as claimed by the applicants' counsel has been explained by the complainant, therefore, this ground is not helpful to the accused. He, however, admits that accused Muhammad Iqbal did not repeat the fire injury.

5. Learned A.P.G while adopting the arguments of learned counsel for the complainant opposes this bail application. She also could not controvert the fact that the fire was not repeated by accused Muhammad Iqbal.

6. I have heard learned counsel for the parties and have gone through the record available before me.

7. No doubt the applicants/accused are nominated in FIR with specific role of causing firearm and lathi injuries to the injured / PWs. Accused Muhammad Iqbal is charged with the offence punishable under Section 324 PPC as he allegedly caused firearm injury to PW/injured Anwar Ali; however, the applicability of Section 324 PPC requires further inquiry as no repetition of fire upon complainant party is alleged against him. Whereas, applicants Muhammad Moosa and

Muhammad Bilal have caused lathi injuries to PW/injured Asif Ali which constitute the offences under Sections 337-A(i) & 337-F(i) PPC for which the punishment provided by law is upto 02 years maximum; hence, does not exceed the limits of prohibitory clause of Section 497 Cr.P.C. Needless to add that in the cases where there is slight tilt towards grant of bail the same needs to be preferred over letting one to confine in jail for an indefinite period in name of trial when conclusion thereof can competently impose due punishment for such released person. In the instant case, no exception has been pointed out by the prosecution specially in the circumstances when applicants/accused are first offenders and nothing contrary to the same has been produced. Furthermore, the parties involved in this case are inimical with each other and no purpose would be served, if the applicants / accused are refused bail. The applicants / accused on ad-interim bail are attending this Court as well trial Court regularly and there is nothing on record to show that they have misused the concession of bail earlier granted to them. The case has been challaned and applicants are no more required for further investigation.

8. In the circumstances and in view of the dicta laid down by the Hon'ble Supreme Court of Pakistan in case of MUHAMMAD TANVEER v. The STATE (PLD 2017 Supreme Court 733) the applicants are entitled for bail. Consequently, applicant Muhammad Iqbal was admitted to post arrest bail; whereas, ad-interim pre-arrest bail of applicants Muhammad Moosa and Muhammad Bilal was confirmed vide a short order dated 28.08.2023 which reads as under:

“Heard learned Counsel for the parties. For the reasons to be recorded later Criminal Bail Application No.S-576 of 2023 is allowed and applicant Muhammad Iqbal is admitted to post arrest bail subject to his furnishing solvent surety in the sum of Rs.150,000/- (One Lac Fifty Thousand) and P.R Bond in the like amount to the satisfaction of the trial Court. Whereas, ad-interim pre-arrest bail of applicants Muhammad Moosa and Muhammad Bilal is confirmed subject to their furnishing additional solvent surety in the sum of Rs.100,000/- (One Lac) each to the satisfaction of the Additional Registrar of this Court”.

9. Needless to mention here that any observation made in this order is tentative in nature and shall not affect the determination of the facts at the trial or influence the trial Court in reaching its decision on the merits of the case. It is, however, made clear that in the event if, during proceedings, the applicants/accused misuse the bail, then the trial Court would be competent to cancel the bail of the applicants/accused without making any reference to this Court.

Above are the reasons of my short order dated 28.08.2023.

JUDGE

Shahid