

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Bail Application No.454 of 2024

Applicants : i. Sajid Naeem  
ii. Saeed Naeem  
Both sons of Fazal Raheem

Complainant : Wahid Naeem S/o Fazal Raheem  
Present in person.

Respondent : The State  
None present.

Date of hearing : 08.07.2024

Date of order : 08.07.2024

### **ORDER**

**AMJAD ALI SAHITO, J** -- Through this Bail Application, applicants/accused seek pre-arrest bail in Crime No.232/2023 for the offence under Sections 337-A(iii)/337A(i)/34 PPC at PS Sher Shah, after their bail plea has been declined by the learned Addl. Sessions Judge-III, Karachi West vide order dated 09.02.2024.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Applicants are present on interim pre-arrest bail but their counsel is called absent. Mr. Muhammad Haroon, Advocate holding brief for Mr. Muddasir Hassan, Advocate for the Applicants, requests for adjournment on the ground that latter is out of station. However, from perusal of record, it reflects that the instant bail application was presented on 23.02.2024. After grant of interim pre-arrest bail to the applicants, no progress is made in the instant case. Complainant alongwith injured is present and requests to proceed with the matter. In such situation, applicants are directed to proceed with the matter. Both the applicants mainly argued that they are innocent and falsely been implicated by the complainant in this case. On the other hand, complainant states that his father received serious injuries at the hands of applicants they are real sons of the injured, as such, no malafide is on the part of complainant. Lastly, he opposes for confirmation of bail to the applicants. No one is present from the office of Prosecutor General, Sindh.

4. Heard and perused. From perusal of record, it reflects that names of the applicants appear in the FIR with specific role that they have attacked upon their real father Fazal Raheem, as such, he got multiple injuries. The ocular evidence finds support from the medical evidence. The injured has fully supported the version of the complainant. At bail stage, only tentative assessment is to be made. No malafide or ill-will or enmity has been pleaded by the applicant/accused, which could be the ground for false implication in this case.

5. Further, the concession of pre-arrest bail cannot be allowed to an accused person unless the Court feels satisfied with the seriousness of the accused person's assertion regarding his intended arrest being actuated by *mala fide* on the part of the complainant party or the local police but not a word about this crucial aspect of the matter is found as no *mala fide* is made on the part of the complainant to believe that the applicant/accused has been implicated in this case falsely. In this context, the reliance is placed to the case of '**Rana Abdul Khaliq v. The STATE and others**' [2019 SCMR 1129]. In addition to the above, I would like to mention that grant of pre-arrest bail is an extraordinary remedy in criminal jurisdiction; it is a diversion of the usual course of law, arrest in cognizable cases; protection to the innocent being hounded on trump up charges through abuse of process of law, therefore, an applicant seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*, it is not a substitute for post-arrest bail in every run of the mill criminal case as it seriously hampers the course of the investigation.

6. In view of the above, the instant bail application is **dismissed**. Resultantly, the interim pre-arrest bail granted to the applicants/accused vide order dated 23.02.2024 is hereby recalled.

7. 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/accused on merits.

JUDGE

Kamran/PA