

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Cr. Bail Application No.S-580 of 2024

13.09.2024

Applicants are present on interim pre-arrest bail.

Mr. Dilbar Khan Laghari, Advocate for applicants.

Syed Taufique Ahmed Shah, Advocate for complainant.

Ms. Sana Memon, Asst. Prosecutor General, Sindh for State.

=

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Bail Application, applicants namely (1) Farooq, (2) Haji, (3) Muhammad Soomar, (4) Arif, (5) Mithoo, (6) Allahdad, (7) Muhammad Ayoub, (8) Mola Bux, (9) Muhammad Bux alias @ Puppo and (10) Hotman, seek pre-arrest bail in Crime No.52 of 2024 registered at PS Taluka Tando Adam u/s 379, 506/2, 504, 427, 447, 452, 147, 148, 149 PPC. Their earlier application bearing No.1130 of 2023 for the grant of pre-arrest bail was heard and dismissed by the learned Additional Sessions Judge-I, Tando Adam vide order dated 17.08.2023. The applicants were admitted to ad-interim bail by this Court, vide order dated 29.05.2024, now they seek confirmation of their interim bail.

2- Briefly stated facts of the case as disclosed in the aforementioned F.I.R are that complainant is landlord having 64 acres of land at Deh Koorlaqdeer. It is alleged that applicants along with 10/15 unknown persons with weapons came at the land of complainant and destroyed their houses, damaged the crops, took away wheat and cattle from the land as well as stolen others articles from the land, which they have sold out. Thereafter, on 19.06.2023 at about 0800 hours the complainant came at his land, where the accused persons were also present, he got knowledge regarding the above incident through his Farmer/Haari namely Mst. Nazia, on which the accused persons became annoyed and used abusive language with the complainant and went away by extending threats of dire consequences.

3- Learned counsel for the applicants contends that applicants are innocent and have falsely been implicated in this case due to

malafide and ulterior motives; that the story narrated in the F.I.Rs is false, fabricated and concocted one requires further enquiry. Learned counsel prays that interim bail granted to the applicants may be confirmed.

4- Learned A.P.G. for the State along with learned counsel for the complainant while opposing the bail of applicants, contends that all accused have jointly attacked upon the complainant party therefore, they are not entitled for bail.

5- Manifestly the allegations against applicants are general in nature. It appears that there is delay of 32 days in lodging of F.I.R; hence, due deliberation and consultation before lodging the F.I.R cannot be ruled out. It further appears that the offence with which the applicants stand charged does not fall within the prohibitory clause of Section 497, Cr. P.C. In such circumstances, grant of bail to an accused is a rule and its refusal is an exception. No exceptional circumstance appears to withhold the bail to applicant in this case. The present case also does not fall within the exception laid down by the Honourable Supreme Court of Pakistan in the case of *Tariq Bashir vs. The State (PLD 1995 SC 34)*. The challan has been submitted and there is no complaint of the applicants regarding misusing the concession of interim pre-arrest bail granted by this Court. The applicants are attending the trial Court regularly. Hence, instant bail application is allowed. Consequently, the interim pre-arrest bail granted to the applicants vide order dated 29.05.2024 is confirmed on same terms and conditions.

6. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicants on merits. In case applicants in any manner try to misuse the concession of bail, it would be open for the trial Court to cancel their bail after issuing them the requisite notice.

JUDGE

Hafiz Fahad