

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

Cr. Bail Application No.S-617 of 2024

16.09.2024

Mr. Zahid Hussain Khoso, Advocate for applicants.

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

None present for complainant.

=

ORDER

ZAFAR AHMED RAJPUT, J:- Having been rejected their earlier application for grant of pre-arrest bail being Cr. Bail Application No.559 of 2024 by the learned Sessions Court Badin, applicants namely (1) Abdul Khaliq s/o Allah Bux, (2) Aijaz Ali s/o Rajab Ali and (3) Ayaz Ali S/o Rajab Ali, seek same concession from this Court in F.I.R No.33 of 2024 registered at Police Station Dehi u/s 324, 397, 353, 147, 148, 149, 504, 342, 501, 337-A(i), 337-F(i) PPC. The applicants were admitted to ad-interim bail by this Court, vide order dated 06.06.2024, now the same is fixed for confirmation or otherwise.

2- Briefly stated facts of the case as disclosed in the aforementioned F.I.R are that the complainant is a police constable posted at PS Dehi and on the alleged day of incident i.e. 26.04.2024 at 1730 hours, he was coming to said PS along with one Daulat Ali (husband of complainant's wife's sister) on a motorcycle; when they reached Kamaro Link Road, applicant / accused Ayaz Ali Jarwar crossed them on motorcycle with Nailon sack. Considering the fact that an F.I.R bearing No.63 of 2023 u/s 8 of Sindh Prohibition of Preparation Manufacturing Storage Sale & Use of Gutka, Mainpuri Act, 2019, was already registered against the said applicant, the complainant finding him suspected chased him and reached Saifullah Sim Nala near Village Ranjho Khan Jarwar Taluka Tando Bago, where said applicant leaving his motorcycle started calling the person standing at Lane for water rotation. The complainant opened the sack and found Mainpuries and Safina Gutka. Meanwhile, the applicants along with

co-accused came there and abused the complainant. Applicant Abdul Khaliq caused lathi below to complainant on his head; Applicant Aijaz caused lathi below to Daulat Ali on his head; applicant Imtiaz snatched CNIC, duty card, cash Rs.1500/- and touch mobile phone of Oppo company along with sin while co-accused Anees snatched CNIC and one mobile phone. They robbed the motorcycle and took the complainant and Daulat Ali to the house of applicant Ayaz Ali where they maltreated them and accused Faisal Mushtaque and others prepared video.

3- After hearing the learned counsel for the applicants, learned A.P.G and perusing the material available on record, it appears that all the offences except offences u/s 324 and 397 PPC are bailable. It is yet to be seen at the trial, if sections 324 and 397, PPC are applicable in the circumstances of the case. It is an admitted position that at the time of incident, the complainant was in civil dress and was not on duty. It is also the matter of record that no description of alleged motorcycle has been given by the complainant in the F.I.R as well as charge sheet. The police has already submitted challan against the applicants; hence, their custody is not required by the police for investigation. There is no complaint of misusing the concession of pre-arrest bail by the applicants; hence, instant bail application is allowed by confirming the interim pre-arrest bail granted to the applicants vide order dated 06.06.2024 on same terms and conditions.

4- 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