

ORDER SHEET

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

**Cr. Bail App. No. S – 70 of 2024**

**Cr. Bail App. No. S – 71 of 2024**

Date of hearing	Order with signature of Judge
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**Hearing of bail application**

1. For orders on office objection at Flag-A
2. For hearing of bail application

**19.02.2024**

Mr. Muhammad Rehan Khan Durrani, Advocate for applicants along with applicants.

Mr. Shafi Muhammad Mahar, Deputy Prosecutor General.

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**Muhammad Iqbal Kalhoro, J.** – These are two bail applications in different crimes and offences against the applicants. One has been registered by complainant Muhammad Yaseen on 24.09.2023 alleging trespass on his house by the applicants and committing theft of four cows bearing Crime No.30 of 2023. Whereas, in Crime No.32 of 2023, complainant Mehrab has alleged that applicants along with co-accused, in all 20 in number, committed trespass on his house on 30.09.2023 at about 09:00 a.m. duly armed with weapons. Then, on account of previous enmity, and after reminding the complainant party of previous cases registered by them and their refusal to withdraw them despite being asked to do so, they caused injuries to at least 09 persons available in the house including Mst. Khatoon and committed robbery of cash amounting to Rs.50,000/- and half tola gold ornaments. All the injured were referred to the doctor for treatment and medical certificates.

2. According to learned Deputy Prosecutor General, all the injured have sustained serious injuries falling within prohibitory clause. Mst. Khatoon was also brought with three such injuries on her person. She was treated, but after 03 days, she died. The postmortem has been conducted, but her cause of death has not been *prima facie* determined by the doctor in final medical certificate.

3. Learned Counsel in defense has argued that applicants are innocent, have been falsely implicated in these cases; that complainant party is in habit of registering false cases against the applicants and these two cases are also an outcome of machinations conspired by the complainant party. There are general allegations against the accused, since no specific role has been assigned to them, they are entitled for the concession of pre-arrest bail in both the cases.

4. On the other hand, learned Deputy Prosecutor General has opposed bail to the applicants stating that the accused have been challaned, among others, U/S 302 & 396 PPC, which stipulates that every person of an unlawful assembly shall be held equally responsible and punished accordingly.

5. I have heard both the parties and perused material available on record. Both the FIRs appear to be registered promptly, just within 24 hours of the incident. In both the FIRs, applicants have been identified by the complainant party. In one FIR No.30 of 2023, they are alleged to have trespassed on the house of complainant and committed theft of cows on the force of weapons. In second FIR No.32 of 2023, applicants after trespassing on the house of complainant duly armed with weapons, committed robbery and injured at least 09 persons, out of whom injured Mst. Khatoon, after 03 days, died. Although the cause of death of Mst. Khatoon has not been determined yet, but in any case, the injuries on her person and other injured have been established *prima facie* from the medical certificates. The occurrence has been further established from the memo of place of incident and 161 CrPC statements of the witnesses. The Challan, among others, U/S 302 & 396 PPC has been accepted by the trial Court that has not been challenged by the applicants. Which means that applicants are to be tried U/S 302 & 396 PPC, which carry capital punishment of death and fall within prohibitory clause U/S 497(i) CrPC.

6. Enmity, as alleged in defense, is a double edged weapon, it cuts both the ways. Meaning thereby that likelihood of the applicants being real culprits, having been influenced by element

of animus in committing the offence, cannot be ruled out. In both the FIRs, applicants are specifically nominated, and there appears to be no mala fide on the part of complainant party to implicate them in two different cases. In the investigation also, the applicants have been found guilty of commission of the offences. Therefore, there appears to be reasonable grounds to believe the applicants to be guilty of the alleged offence.

7. In absence of any material rebutting allegations leveled against the applicants in FIRs, report of Investigating Officer, taking cognizance of the offence by the trial Court, and in view of above discussion, I am of the view that applicants have not been able to make out a case for extra ordinary concession of pre-arrest bail. Hence, both the applications are **dismissed** and ad-interim pre-arrest bail earlier granted to applicants by this Court, vide orders dated 01.02.2024, is hereby recalled.

8. The observations, as above, are tentative in nature and not meant to affect merits of the case before the trial Court.

Both bail applications stand **disposed of** in the above terms. Office to place a signed copy of this order in the captioned connected matter.

J U D G E

Abdul Basit