

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

Criminal Bail Application No.S-1283 of 2023

Applicant : Through Mian Taj Muhammad Keerio, Advocate.
Complainant : None present despite notice.
State : Through Ms. Rameshan Oad, Asst. P.G Sindh
Date of hearing : **22.01.2024**
Date of Order : **22.01.2024**

O R D E R

AMJAD ALI SAHITO, J:- Through instant bail application, the applicants/accused seek pre-arrest bail in Crime No.61 of 2022, for offence under sections 324, 109, 24 PPC, registered at P.S. Site District Hyderabad, after his bail plea was declined by the learned Additional Sessions Judge-III, Hyderabad, vide order dated 10.01.2023.

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

3/- Learned counsel for the applicants has contended that the applicants / accused are innocent and have falsely been implicated in this case; that the allegations leveled against the applicants / accused are general in nature; that the injured was at the mercy of the applicants / accused but they have not repeated the fire; that no specific role has been assigned to the applicants / accused. He next submits that the offence with which the applicants stand charged does not fall within the prohibitory clause of Section 497 Cr.P.C. He lastly prayed for confirmation of bail.

4/- Learned Asst. P.G assisted by learned counsel for the complainant vehemently opposed to the grant of bail by contending that the names of applicants / accused transpired in the F.I.R with specific role.

5/- I have heard the parties present in Court, and have gone through the available record.

6/- Admittedly, the complainant is not the eye witness of the incident however, the statement of the injured Ghulam Hussain was recorded wherein he has disclosed the names of the accused persons with specific role that on the instigation of accused Anwar alias Mirch the applicants / accused with intention to commit murder have made direct fire upon him and resultantly he has received fire arm injuries and as per medical certificate issued by the concerned M.L.O the injured Ghulam Hussain received two (02) injuries on different parts of body. The prosecution witnesses / injured also support the version of the complainant in their 161 Cr.P.C statements. Furthermore, no ill-will or malafide is alleged against the complainant party by the applicants even otherwise they have shown in F.I.R with specific role. In this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakistan [2019 S C M R 1129] wherein the Hon'ble Supreme Court of Pakistan has held as under:

“Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner 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 investigation..... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law.”

7/- At bail stage, only tentative assessment is to be made. In view of above discussion, there is sufficient material available on record to connect the applicants / accused in the commission of offence and so also they have also failed to make out a good case for confirmation of bail. Consequently, the bail application is **dismissed** and the interim pre-arrest bail earlier granted to the applicants/accused vide order dated 22.11.2023 is hereby re-called. A copy of this order be communicated to the learned trial Court for information.

8/- 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 applicant on merits.

JUDGE

Hafiz Fahad