

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Bail Application No.S – 598 of 2024

Hearing of bail application

1. For orders on office objection at flag 'A'
2. For hearing of bail application.

07.11.2024

Mr. J.K Jarwar, Advocate along with Applicants
Mr. Riaz Ali Shaikh, Advocate for the Complainant
Mr. Shafi Muhammad Mahar, DPG for the State

ORDER

Zulfiqar Ali Sangi, J;- Applicants Pannah Ali, Razique Dino and Mehrab seek pre-arrest bail in FIR No.154 of 2024 registered under Sections 452, 337-A(i), 337-F(i), 148, 149, 511, 364, 506/2 and 504 P.P.C at PS Bhiria City, District Naushahro Feroze, after their earlier bail for same relief was declined by learned Sessions Judge, Naushahro Feroze vide impugned order dated 16.08.2024, hence this bail application.

The facts relating to bail application in hand are already mentioned in FIR as well as memo, therefore, there is no need to reproduce the same.

It is contended by learned counsel for the applicants that as per FIR the allegation against the present applicants is that they caused injuries to the injured Mst. Allah Rakhi, Mst. Sumaira, Mst. Humaira, Mst. Fateh Khatoon and Mst. Raheeman so also attempted to abduct Mst. Humaira and Mst. Raheeman. It is further contended that there is delay of three days in lodgment of the FIR and no plausible explanation has been furnished; that there is dispute between the parties over the landed property; that there are several applications/cases

pending against both the parties filed by them on a disputed of land; that the injuries sustained by the injured are bailable and no grievous injury was received by any of the PWs. He lastly contended that the applicants are entitled for the concession of pre-arrest bail.

Counsel for the complainant opposed for grant of bail to the applicants by contending that they are nominated in the FIR with specific role of causing injuries to the injured persons who have supported the version of complainant in their 161 Cr.PC statements; that the medical evidence is also supported the ocular version of the complainant and injured PWs, therefore, they are not entitled for extra ordinary concession of pre-arrest bail.

Learned Deputy PG after going through the material available on record and the Medical Certificates of the injured PWs conceded for confirmation of bail of the applicants on the ground that the nature of injuries as declared by the medical officer which are bailable and for attempt of kidnapping the PWs the offence is punishable under the provisions of Section 511 PPC being one half of the sentence, which is 05 years, therefore, the offence does not fall under the prohibitory clause of Section 497 CrPC.

Heard learned counsel for the applicants, learned counsel for the complainant, learned Deputy PG for the State and perused the material available on record.

From perusal of the FIR, it reflects that initially the incident took place on 29.07.2024 same was not reported to the police

and subsequently another incident took place on 30.07.2024 which too was not reported to the police on the same date and thereafter FIR was registered on third day i.e. 31.07.2024. Record further reveals that there is old enmity between the parties over landed property, for which several cases are pending adjudication before the Courts of law against each other. The parties are closely related to each other being the members of one and same family. The offence for which the applicants are allegedly involved carried punishment upto 05 years and the same does not fall within the prohibitory clause of Section 497 CrPC and the bail in these cases is right and refusal is an exception as has been held by the Apex Court in the cases of *Tariq Bashir vs. The State and 5 others (PLD 1995 Supreme Court 34)*; *Muhammad Tanveer vs. The State (PLD 2017 S.C 733)*; *Zafar Iqbal vs. Muhammad Anwar (2009 SCMR 1488)* and *Shaikh Abdu Raheem vs. The State etc. (2021 SCMR 822)*. In these circumstances, the applicants are entitled for confirmation of pre-arrest bail, hence the interim pre-arrest bail already granted to the applicants vide order dated 02.09.2024 is hereby confirmed on same terms and conditions. The applicants are directed to attend the trial Court regularly.

The observations made herein above are tentative in nature and shall not influence the trial court while deciding the case on merits.

The bail application stands allowed in the above terms.

Judge