

IN THE HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS

Crl. Bail Application No.S-201 of 2024
(Akbar @ Akbar Ali Vs. The State)

DATE ORDER WITH SIGNATURE OF JUDGE

Date of hearing & order 01-10-2024

Mr. Parshotam K. Khatri, advocate a/w applicant.
Mr. Kanji Mal Meghwar, advocate a/w complainant and injured.
Mr. Dhani Bakhsh Mari, Assistant P.G Sindh.
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ORDER

Adnan-ul-Karim Memon, J. The applicant Akbar @ Akbar

Ali is seeking pre-arrest bail in F.I.R No.134 of 2024 for the offense under sections 506(ii), 509, 504, 114, 337-A(i), F(i) and 34 P.P.C of PS Umerkot City.

2. His earlier bail plea was declined by the trial court vide order dated 23.08.2024 on the premise that the applicant is specifically nominated in FIR for causing knife injuries to his victim brother, which is supported by medical and ocular evidence and that deeper appreciation is unwarranted at bail stage.

3. Learned counsel for the applicant contended that there is an allegation of causing injuries with a knife to the real brother on account of a property dispute but the injuries to the injured fall under section 337-A(i) and 337-F(ii) PPC, which do not fall within the ambit of prohibitory clause of section 497(1) Cr. P.C and ingredients of section 506(2) PPC are not attracted in the above case. The learned counsel argued that the FIR was/is lodged a day late without explanation; that the complainant claimed one strike, the victim said two, but the medical report showed three; that two of the injuries are bail-able offenses; that the case was/is motivated by a land dispute. Learned counsel submitted that the police is bent upon humiliating the applicant in a family dispute case. He relied upon the cases of Ghulam Muhammad alias Masood Vs. The State [2020 YLR Note 56 Sindh Larkana Bench], Sultan & 6 others Vs. The State [2018 YLR 204 Sindh] and Shaukat Ali alias Laloo VS The State [2009 YLR 184 Karachi].

4. Learned counsel for the complainant opposed the bail application on the premise that the applicant had caused severe injuries to his brother

Muhammad Sadiq in the stomach. He added that medical records confirm the injuries.; that witnesses support the accusation; and that the delay in filing the FIR is well explained by the medical referral letter, therefore, the bail plea of the applicant is liable to be declined and the trial court be directed to conclude the trial within 02 months. Learned Assistant P.G Sindh is of the same view.

5. Primarily, this is a landed dispute between two real brothers. The case has been challaned and the applicant is no more required for further investigation, but no progress has been made before the trial Court. The applicant attends the trial Court regularly. The learned counsel for the applicant claimed that the witnesses are not attending the court. The learned counsel for the complainant has failed to plead that after granting pre-arrest bail, the applicant has made any attempt to tamper with the prosecution evidence or misuse the concession of bail. In the case of Nadeem v. The State (2016 SCMR 1619); wherein the Supreme Court of Pakistan has held that:

“...3 In the absence of any evidence that the petitioner had tried to misuse the concession of bail or attempted to tamper with the prosecution evidence, it was not open for the learned High Court to recall the bail already granted to the petitioner. The learned Additional Prosecutor General has also confirmed that challan has already been submitted in the trial Court.”

6. At the bail stage, only a tentative assessment is to be made and deeper appreciation is not permissible. The learned counsel for the applicant has succeeded in making out a case for confirmation of interim pre-arrest bail to the applicant in terms of subsection (2) of Section 497 Cr.P.C. By taking the guideline from the above-cited case, the instant bail application is allowed. The interim pre-arrest bail granted to the applicant vide order dated 26.08.2024 is hereby confirmed on same terms and conditions. The applicant is directed to furnish additional surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) to the satisfaction of the learned Additional Registrar of this Court. Let the matter be referred to the trial court to conclude the trial within two months by examining the injured brother within one month.

7. The observation is tentative and shall not prejudice the case of either party at the trial. This bail application stands disposed of.

