

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Crl. Bail Appln. No. S - 483 of 2024  
Crl. Bail Appln. No. S - 486 of 2024

Applicant in Cr. : Sajid Ali Naich, through Mr. Sikandar Ali Shah,  
B.A. No.S-483/24. Advocate.

Applicants in Cr. : Habibullah Naich & another, through Mr. Sikandar Ali  
B.A. No.S-486/24. Shah, Advocate.

The State : Through Mr. Aitbar Ali Bullo, Deputy Prosecutor  
General.

Complainant : Muhammad Toufique Khan, Assistant Security Officer,  
PARCO Pumping Station, Shikarpur,  
Through Mr. Ahmed Raza A. Sundrani, Advocate.

Date of hearing : 29.10.2024.  
Date of Order : 29.10.2024.

O R D E R

ARBAB ALI HAKRO, J.- The above two criminal bail applications are inter connected having been filed in Crime No.138/2024 of P.S Kashmore, for offence u/s 462-B, 427, 511, PPC; therefore, same are being decided by this common order.

2. Applicants Sajid Ali son of Ahmed Bux Naich (Cr. Bail Application No.S-483/2024) and Habibullah son of Ghous Bux, Din Muhammad son of Noor Muhammad, both by caste Naich (Cr. Bail Application No.S-486/2024), seek pre-arrest bail in the above case/crime, after dismissal of their pre-arrest bail applications by the learned 2<sup>nd</sup> Additional Sessions Judge, Kandhkot vide order dated 21.8.2024.

2. The prosecution case, in brief, is that on 09-07-2024, at about 8.00 a.m., complainant Muhammad Toufiq Khan Awan, Assistant Security Officer, PARCO Pumping Station, Shikarpur alongwith Abdul Rasool Bijarani, Security Supervisor and Ali Akhtar, Line Walker, during checking of PARCO Pipeline, found the pipeline tampered/damaged at the land of Habibullah Naich at W.O.P. 86-kilometer with a 8/9 months' old clip installed in it by some unknown accused with intention to commit theft of oil. He conveyed such information to his high-ups and on their advice got the pipeline repaired and then lodged FIR.

3. Heard learned counsel for the applicants as well as learned DPG for the State and perused the record.
4. Learned counsel for the applicants has mainly argued that the applicants are innocent and have been implicated in this case under suspicion; that the FIR has been lodged with the delay of 10 days without plausible explanation that the alleged incident is unwitnessed and unseen, as nobody has seen any of the applicants while installing the iron clip or committing theft from the PARCO pipeline; that there is no iota of evidence to connect the applicants with the alleged offence; that the case against the applicants requires further enquiry, as envisaged under sub-section (2) to Section 497, Cr.P.C. In support, he has referred to the cases reported as *Imtiaz Ahmed v. the State* (**2022 YLR 355**), *Mumtaz Ali v. The State* (**2013 YLR 1178**), *Jaffar Mehmood and others v. The State and others* (**2016 YLR 846**), unreported order dated 30.8.2023 passed in Cr. Bail Application No.S-1786/2023 at the Principal Seat of this Court at Karachi and 161, Cr.PC statement of PW Ali Asghar Khoso.
5. Conversely, the learned DPG assisted by learned Counsel for the complainant, have opposed the bail applications, contending that the applicants are involved in committing theft of oil from the pipeline of PARCO by installing an iron clip in it; that the offence being against the national interests carries punishment which attracts the prohibitory clause of Section 497, Cr.PC and sufficient material is available on record to connect the applicants with the commission of alleged offence, therefore, they are not entitled for extraordinary concession of pre-arrest bail.
6. From the perusal of the record it reveals that this is a case of an attempt to commit theft of oil; however, the admitted fact is that neither the applicants/accused were seen at the place of incident by the complainant nor any member of the complainant party witnessed them damaging the PARCO pipeline. Further, there is a delay of 10 days in the registration of the FIR, as the alleged incident occurred on 09.7.2024, whereas the FIR was lodged on 19.07.2024, which has not been properly explained by the complainant, which creates some doubt in the present case. Even otherwise, the applicants are not nominated in the FIR and they were subsequently introduced in the case on the basis of statements u/s 161, Cr.PC statements of the PWs. Therefore, their case is one of the further enquiry. Hence, at the bail stage, *prima facie*, involvement of the applicants/accused cannot be determined merely on the basis of the statements of the PWs without any other incriminating material corroborating

these statements. A mere bald allegation of theft is not sufficient for holding the applicants/accused liable for the commission of the alleged crime. Case has been challaned.

7. Although, these are pre-arrest bail applications, the merits of granting bail before and after arrest are different. The Supreme Court of Pakistan in the case titled *Sajid Hussain alias Joji v. The State and another* reported in **PLD 2021 SC-898** has held that while granting extraordinary relief of pre-arrest bail, even the merits of the case can be touched upon.

8. From the tentative assessment of the material available on record, I am of the view that the applicants/accused have made out their case for grant of pre-arrest bail; therefore, the interim pre-arrest bail already granted by this Court to applicant Sajid Ali on 26.08.2024 and applicants Habibullah and Din Muhammad on 28.08.2024 is hereby confirmed on same terms and conditions.

9. Needless to mention that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the fate of the case.

JUDGE

**Qazi Tahir PA/\***