

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

Criminal Bail Application No.S-394 of 2024

Applicants : Abid Hussain and Manzoor Ali through Mr.Ghulamullah Chang, Advocate, who has filed Vakalatnama on their behalf today, which is taken on record.

Respondent : The State through Ms. Rameshan Oad, Assistant Prosecutor General Sindh along with I.O. Inspector Bashir Ahmed Mallah.

Complainant : Mst. Farzana through Mr. Abdul Hafeez Solangi advocate.

Date of hearing : 18.11.2024.

Date of Order : 18.11.2024.

ORDER.

Amjad Ali Sahito, J:- Through instant bail application, the applicants/accused namely, Abid Hussain and Manzoor Ali seek pre-arrest bail in Crime No.23/2024, registered at Police Station Dehi for the offence under section 302, 34 PPC. Earlier the bail plea of the applicants/accused was declined by the learned 2nd Additional Sessions Judge/MCTC Badin vide order dated 16.04.2024.

2. The details of the FIR are included in the bail application and its attached copy, so there is no need to restate them here.

3. Learned counsel for the applicant contends that the applicants/accused are innocent and have falsely been implicated in this case; that the only allegation is against accused Imran, who is stated to be husband of deceased Mst. Jannat; however, the relatives of the deceased have booked the present applicants/accused otherwise they are innocent; that the FIR is lodged with delay of one day without plausible explanation; that no specific role has been assigned against the applicants/accused; that the alleged incident is un-witnessed one and yet the trial Court is to decide the guilt of the applicant/accused after recording evidence of the parties; that the applicant/accused is behind the bars and no purpose would be served if he is kept in Jail for an indefinite period notwithstanding that the investigation is complete and applicants/accused are no more required for further investigation, as such, the case of applicants/accused requires further inquiry. He lastly prayed for confirmation of interim pre-arrest bail already granted to the applicants/accused.

4. Learned A.P.G. Sindh has opposes the grant of bail in favour of applicants/accused. Whereas, learned counsel for the complainant vehemently opposes the grant of bail to the applicant/accused and contends that the applicants/accused are nominated in the FIR and they are very much involved in the commission of offence as they have shared their common intention, hence, they are not entitled for the concession of bail.

5. Heard and perused the record.

6. From perusal of the record, it reflects that the role for committing murder of deceased is allegedly assigned upon co-accused Imran, who is stated to be husband of deceased Mst. Jannat, otherwise, there is no role against the applicants/accused. In the case of 'Qurban Ali v. The State and others' (2017 SCMR 279), whereby the Honourable Supreme Court of Pakistan had granted bail to the accused who had not been attributed any overt act during the occurrence except the role of instigation. In such circumstances, it is the trial Court to determine, after recording pro and contra evidence, whether the applicant/accused was vicariously liable for the acts of co-accused. In another case of 'Mumtaz Hussain and 5 others v. The State (1996 SCMR 1125), the bail was granted to accused on the ground that despite being allegedly armed with deadly weapons. Same was not used in the commission of offence. In the instant case, it is yet to be seen after recording the evidence of prosecution witnesses as to whether the applicants/accused shared a common intention with the co-accused, but until then, the applicants should not be held in detention as the investigation is complete and further custody would not serve any purpose. Further, at the bail stage, only a provisional assessment is made.

7. In view of the above facts and circumstances, learned counsel for the applicants/accused has succeeded to make out the case for further inquiry. Consequently, instant criminal bail application is **allowed** and the interim pre-arrest bail already granted to the applicants/accused is hereby confirmed on the same terms and conditions laid down therein.

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 applicants on merits.

JUDGE