

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

Criminal Bail Application No.S-1239 of 2024

Applicants : Qurban Ali alias Qurban and Mehboob Ali alias Mehboob through Mr. Ameer Hassan Panhwar, Advocate.

Respondent : The State through Mr. Irfan Ali Talpur A.P.G. Sindh.

Complainant : Imam Bux through Mr. Muhammad Iqbal Qassar, Advocate.

Date of hearing : 28.11.2024.

Date of Order : 28.11.2024.

ORDER.

Amjad Ali Sahito, J:- Through instant bail application, the applicants/accused namely, Qurban Ali alias Qurban and Mehboob Ali alias Mehboob seek pre-arrest bail in crime No.140/2024, registered at Police Station Kario Ghanwar, for the offence under sections 324, 506/2, 114, 504, 337-A(i), 337-F (i) PPC. Earlier the bail plea of the applicants/accused were declined by the learned Sessions Judge, Badin vide order dated 07.11.2024.

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 applicants contends that the applicants have falsely been implicated in this case otherwise, they are innocent. The role assigned against the applicant Qurban is that he having repeater in his hand fired upon complainant party, but this version of the complainant is contradicted by the medical evidence as according to which, there is abrasion and swelling and there is no firearm injury. He further contends that the injuries falling under sections 337-A (i) and 337-F (i) PPC are bailable while application of section 324 PPC is yet to be determined at the trial whereas section 506/2 PPC does not come within the ambit of prohibitory clause of section 497 (1) Cr.P.C. He contends that the applicants are entitled for grant of bail and prays that the interim pre-arrest bail already granted to the applicants may be confirmed.

4. On the other hand, learned counsel appearing on behalf of the complainant vehemently opposes the grant of bail and contends that name of accused persons appeared in the FIR with specific role. Learned A.P.G. Sindh also opposes the confirmation of bail to the applicants.

5. Heard and perused the record.

6. The applicants are named in the FIR by the complainant for allegedly inflicting firearm injuries on the complainant party and causing injuries to Javed and Abass. However, the medical certificate(s) indicates that the injuries were caused by a hard and blunt substance and swelling found on different parts of the bodies of injured. The injuries are falling under sections 337-A (i) and 337-F (i) PPC, which are bailable offenses. The applicability of section 324 PPC is yet to be determined after recording evidence of the prosecution witnesses in the trial court. While, section 506/2 PPC, it does not fall under the prohibitory clause of section 497(1) of the PPC. The eyewitness testimony and medical evidence are consistent. It is important to emphasize that, at the bail stage; only a tentative evaluation is made. The learned counsel has contended that the applicants are being falsely implicated due to prior enmity, with *mala fide* intention on the part of the complainant. Furthermore, the learned counsel has stated that the interim challan has been submitted and the applicants are no more required for further investigation.

7. In view of the above facts and circumstances, learned counsel for the applicant has successfully made out the case for further inquiry as envisaged under subsection 2 of section 497 Cr.P.C. Consequently, instant bail application is **allowed** and interim pre-arrest bail earlier granted to the applicants by this Court vide order dated 19.11.2024 is hereby confirmed on the same terms and conditions.

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