

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**  
**Cr. Bail Application No. S-491 of 2024**

Date	Order with signature of Judge
<b>Applicants:</b>	Roshan Ali @ Zahid Ali and Hafeez @ Abdul Hafeez. Both sons of Muhammad Bux bycaste Mohail.  <b>Through</b> Mr. Achar Khan Gabole advocate.
<b>The State:</b>	Through Mr. Khalil Ahmed Maitlo, Deputy Prosecutor General.
<b>Date of hearing.</b>	<b>03-03-2025.</b>
<b>Date of decision.</b>	<b>03-03-2025.</b>

**ORDER.**

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**Ali Haider 'Ada',J:-** Through this application, the applicants/accused named above seek pre-arrest bail in Crime No. 226/2023, offence u/s 302, 324, 147, 148, 354, 504, 114 PPC registered at Police Station A-Section Sukkur. Prior to this applicants/accused filed pre arrest bail application before learned Sessions Judge Sukkur, which was transferred to V-Additional Sessions Judge Sukkur, where it was dismissed vide order dated 26-04-2024, hence they preferred the instant bail application.

2. Briefly the facts of the instant case are that Complainant Qamar Din lodged the FIR on 10-09-2023 alleging therein that that his daughter in law Robeena aged about 20 years, daughter Aisha aged about 21/22 years and another other daughter Badshahzadi aged about 17 years and son Amjad Ali were available in the house. Meanwhile at about 10:00 pm present applicants/accused along with co-accused duly armed with daggers/chhurries entered into their house and on the instigation of applicant/accused Hafeez and co-accused Abdul Qadir, accused Sajid, Shareef, Abdul Karim and Mureed caused dagger/knife injuries to Mst. Badshahzadi, Mst. Aisha and Mst. Robeena while remaining accused caught

hold his son Amjad Ali and later-on they escaped, while the instant case was lodged on the basis of land dispute.

3. On the last date of hearing, progress report was called from the trial Court, which is available on record and as per progress report, the matter is fixed for recording evidence of prosecution witnesses.

4. Learned counsel for the applicants contends that there is delay of four days in lodging of the FIR and such delay has not been explained; that learned trial Court on 28-01-2025 granted post arrest bail to co-accused Abdul Qadir, who has identical role of instigation with applicant No. 2 Hafeez; that role of applicant No.1 Roshan is mere presence; that learned trial Court granted post arrest bail to accused Abdul Qadir while on the other hand declined the bail of applicant No.2 Hafeez; therefore, he prays both the above named applicants are entitled for the grant of bail. In support of his contention he relied upon cases reported as 2022 SCMR 1424, 2012 P.Cr.L.J 430, 2017 SCMR 279, 2009 SCMR 299 and 2016 SCMR 907.

5. On the other hand learned Deputy P.G for the state has opposed for confirmation of interim pre arrest bail on the ground that three female members of the complainant party have sustained injuries at the hands of accused, out of them Mst. Aisha has been expired and the question of common intention and common object is very much arise; that have committed the offence to settled their dispute over landed property; therefore they are not entitled for concession of pre-arrest bail. The complainant is present and submits that applicants/accused along with co-accused entered into his house, caused injuries to three women; out of them one Mst. Aisha has been expired; therefore their bail may be declined.

6. Heard learned counsel for the parties and perused the material available on record.

7. It transpires from the F.I.R. that both the applicants/accused are shown as empty handed and specific role attributed against applicant Roshan is not transpired in FIR byname; while role attributed against applicant Hafeez and co-accused Abdul Qadir is that on their instigation remaining accused have caused injuries to Mst. Aisha, Mst. Badshahzadi and Mst. Robeena. Co-accused Abdul Qadir has been granted bail by the learned trial Court as his role is similar to that of co-accused Abdul Qadir. There is inordinate delay of about four days in lodging the FIR; such delay has not been properly explained by the complainant, though the police station was situated at the distance of only two kilometers, inspite of that complainant has not lodged the FIR promptly. The question of common object and common intention is to be determined after recording evidence of the prosecution witnesses; hence the case of applicants/accused requires further inquiry. Moreover, dispute over the share of property has been described by the complainant in the FIR, hence possibility of false implication of the applicants/accused cannot be ruled out. The case has been challaned and applicants/accused are no more required for further investigation. Reliance is placed on case reported as *Javed Iqbal Vs. The State through Prosecutor General of Punjab and another (2022 SCMR 1424)*.

8. In view of above discussion, learned counsel for the applicants/accused has made out a good case for confirmation of bail in the light of sub section (2) of Section 497 Cr.P.C, hence the instant bail application is allowed and interim pre arrest bail already granted to the applicants/accused is confirmed on same terms and condition. Learned trial

Court is at liberty to take action against the applicants/accused, if they misuse the concession of bail.

9. Needless to mention that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of the applicant on merits.

**J U D G E**

*Nasim/P.A*