

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

CrI. Bail Application No.S- 280 of 2024

(Naeem Ahmed & 03 others v. The State)

For hearing of Bail Application

Mr. Aftab Hussain Shar, Advocate along with applicants.

Mr. Shafi Muhammad Mahar, Deputy for the State.

Date of Hearing & Order: **03-02-2025**

ORDER

RIAZAT ALI SAHAR L. Through this bail application, applicants Naeem Ahmed, Hamadullah, Ghulam Jaffar and Muhammad Fareed seek pre-arrest bail in Crime No.128 of 2024, registered at P.S, Shaheed Murtaza Meerani for offences under sections 337F(vi), 337H(2) & 34 PPC. Bail plea preferred by the applicants before first forum was declined by means of order dated 02.05.2024, passed by learned Additional Sessions Judge-IV/Special/GBV Court, Khairpur.

2. FIR of the alleged incident was lodged by complainant Ahmed Bux on 22.03.2024 in respect of an incident allegedly occurred on 17.03.2024, wherein he alleged that present applicants duly armed with KK, repeater and Lathi came at his land and applicant Naeem Ahmed caused butt blows of KK to his right arm, applicant Fareed caused butt blows of repeater to his son Aamir Ali on his left arm, applicant Ghulam Jaffar inflicted butt blows of KK to Aamir Ali on his left leg and applicant Hamadullah gave lathi blows to Aamir Ali on his leg, who raised cries and fell down on the ground. Thereafter, all applicants while making aerial firing left the scene of offence. The complainant then took his injured son at P.S and after obtaining referral letter approached Civil Hospital, Khairpur and after getting medical certificate dated 21.03.2024 lodged the FIR.

3. Learned counsel for the applicants submits that applicants are innocent and have falsely been implicated in this case due to dispute

over landed property; that the FIR is delayed for about five days, for which no proper explanation has been offered by the complainant; that the offences with which applicants stand charged carries maximum punishment upto 07-years, hence do not fall within the prohibitory clause of section 497 Cr.P.C; that the medical certificate issued by MLO was challenged by injured Amir Ali s/o Ahmed Bakhsh Phulpoto before the Medical Board, Ghulam Muhammad Mahar Medical College, Hospital, Sukkur, where injured did not appear for three consecutive dates viz. 09.10.2024, 23.10.2024 & 06.11.2024 and consequently, the medical certificate issued by MLO was unanimously kept in abeyance/suspended; that the case is at advanced stage of recording statements of accused under section 342 CrPC; that applicants have been appearing before trial Court regularly. Lastly, he prayed for confirmation of interim pre-arrest bail earlier granted to the applicants by this Court. To support his contentions, learned counsel has placed reliance on the case of *Muhammad Essa v. The State* (**2012 SCMR 646**).

4. Learned Deputy P.G for the State, in view of above legal position, does not oppose bail application. However, counsel for complainant is called absent though this is a date by Court matter.

5. Heard arguments and record perused. Admittedly, the offences with which applicants are charged do not fall within prohibitory clause of section 497 CrPC, as the offence carries maximum punishment upto seven years. The case is being tried by the Court of Judicial Magistrate where after recording of evidence of the parties if prosecution may prove its charge against the applicants even then the punishment of more than three years cannot be visualized. In the case of *Muhammad Essa* (**supra**), the Hon'ble Supreme Court in the identical circumstances has admitted the accused to pre-arrest bail, as the offences alleged did not fall within the prohibitory clause of section 497 CrPC.

6. As far as medical certificate issued by the MLO is concerned, the same was challenged by injured Amir Ali, but since he did not appear

before the Medical Board for three consecutive dates, the same has been kept in abeyance/suspended by the Medical Board, constituted by GMMMC, Sukkur vide Office Order dated 22.11.2024 (available with statement dated 02.12.2024), which requires further enquiry and *mala fide* on the part of the complainant party, particularly injured. Furthermore, applicants are regularly attending the trial Court and there is no complaint of their misusing the concession of interim pre-arrest bail earlier granted to them by this Court.

7. The upshot of the above discussion is that the applicants have made out a case for grant of pre-arrest bail. Accordingly, instant Bail Application is hereby **allowed** and **disposed of**. Resultantly, interim pre-arrest bail earlier granted to the applicants by this Court is hereby confirmed on same terms and conditions. Applicants are directed to continue their appearance before trial Court till final decision of the main case.

8. The observations made herein above are tentative in nature and may not influence the case of either party before the trial Court.

J U D G E

Ahmad