

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2296 of 2024

Applicant : i. Eid Muhammad S/o Sukhio Khan
ii. Ghulam Hussain S/o Sukhio Khan
iii. Muhammad Khan @ Muhammad Bux S/o
Sukhio Khan
through M/s. Ahmed Ali Ghumro & Abdul Sai
Sohoo, Advocates

Complainant : Abid Ali S/o Raheem Bux
through Mr. Gul Muhammad Farooqi,
Advocate

Respondent : The State
Through Mr. Muhammad Noonari, DPG
ASI Muhammad Punhar

Date of hearing : 10.02.2025

Date of order : 10.02.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicants/accused seek pre-arrest bail in Crime No.574/2024 for the offence under Sections 504/506-B/447/511/34 PPC registered at PS Gadap City, after their bail plea has been declined by the learned IInd Additional Sessions Judge, Malir Karachi vide order dated 04.10.2020.

2. The details and particulars of the FIR are already available in the bail application and FIR, same could be gathered from the copy of FIR attached with such application, hence, needs not to reproduce the same hereunder.

3. Per learned counsel for the applicants, applicants are innocent and have falsely been implicated in this case; that in fact the disputed land belongs to villagers which the complainant party has occupied otherwise no offence has been committed by the applicants. He has relied upon the letter issued by the office of District Officer Revenue, City District Government Karachi, the same is available at Page-59 so also Civil Suit filed by the applicants which is available at Page-85. He submits that civil litigation is also pending before the competent court of law. He lastly submits that the applicants have joined the investigation and they are no more

required for further investigation; as such, they are entitled for confirmation of bail.

4. On the other hand, learned DPG has vehemently opposed for grant of bail and stated that in fact after registration of the FIR, the said Suit was filed by the applicants, otherwise complainant party was real owner of the land and villagers have separate land which complainant party has never occupied; that in order to grab the land of the complainant, the said land was claimed by the applicants. Learned DPG while opposing confirmation of bail submits that section 504 PPC is bailable whereas punishment provided under section 506/B PPC is seven years but the offence also falls under 511 PPC which means that the offence is not completed as such half punishment will be considered.

5. Heard the parties and perused the material available on record.

6. The case of the prosecution is that applicants/accused tried to occupy the subject land but due to resistance of complainant party, they could not succeed in doing so; however, applicants were duly armed with weapons but not a single person received scratch or injury. The dispute is over land and claim of the accused is that the said land belongs to the villagers whereas the complainant's claim is that they are the real owner of the said land and the land of the villagers is separate from their land; however, it is yet to be determined as to who the real owner of the said land when the evidence will be recorded. The offences in which the applicants have been booked do not fall within the prohibitory clause of Section 497 Cr.P.C.; grant of bail is right, refusal is exception, however, no exception has been pleaded by the learned counsel for the complainant so also learned DPG that after grant of bail the applicants will misuse the same. Learned counsel for the applicants also pleaded malafide on the part of complainant that in fact they are trying to occupy the villagers land; as such, the FIR was registered. At bail stage, only tentative assessment is to be made and deeper appreciation is not permissible.

7. In view of the above, learned counsel for the applicants has made out case for grant of bail in terms of subsection 2 of section 497 Cr.P.C. Resultantly, the instant bail application is **allowed**. The interim pre-arrest bail granted to the applicants/accused vide order

dated 05.10.2024 is hereby confirmed on same terms and conditions. The Applicants are directed to attend the trial. However, it is made clear that if the applicants/accused misuse the concession of bail, learned trial Court would be at liberty to take appropriate action.

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/accused on merits.

JUDGE

Kamran/PA