

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2620 of 2024
Criminal Bail Application No.2530 of 2024

Applicant : Faizan Ashraf S/o Muhammad Ashraf
in CrI.B.A. No.2620/2024

Applicant : Mst. Hajra Bibi W/o Muhammad Ashraf
in CrI.B.A. No.2530/2024 through: Mr. Abdul Qadir & Ms. Pia Ali,
Advocates

Complainant : Ikram Afzal S/o Muhammad Afzal

Respondent : The State
through Mr. Muhammad Anwar Mahar, DDPP
a/w SIP AR Rind & ASIP Imran

Date of hearing : 17.02.2025

Date of order : 17.02.2025

ORDER

AMJAD ALI SAHITO, J – By this common order, I intend to dispose of both the bail applications filed by the applicants, who are seeking pre-arrest bail in Crime No.36/2024 for the offence under Sections 380/454/34 PPC registered at PS Ittehad Town, after their bail plea has been declined by the learned Additional Sessions Judge-XII, Karachi West vide order dated 15.10.2023.

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 there is a dispute between ex-husband of applicant Mst. Hajra and the applicants as such, instant FIR was registered, otherwise, the applicants have not committed any offence; that applicant Mst. Hajra also filed an application under Section 22-A & 22-B Cr.P.C. before the Addl. Sessions Judge-XII, West Karachi and after filing the same, comments were called thereafter, police submitted a report stating that in fact there was a dispute between applicant and one Akram; that the complainant with malafide intention and ulterior motives converted a matrimonial dispute in the FIR. Lastly, he prays for confirmation of bail.

4. On the other hand, Mr. Saifullah Abbasi, Advocate holding brief for Mr. Rozi Khan, Advocate for the Complainant, requests for adjournment on the ground that latter is unwell. Such request is declined on the ground that instant bail application was presented on 11.11.2024 and since then it is pending without any progress. Learned DDPP also opposed for grant of bail. ASI Imran is present and states that I.O. is busy before ATC Court as such he is unable to properly reply to the queries raised by this Court.

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

6. From perusal of record, it reflects that FIR is delayed with 3 days for which no plausible explanation has been furnished. Learned counsel for the applicant invited attention of the Court at Page-51 wherein applicant Mst. Hajra Bibi filed an application being Crl. Misc. Application No.475/2024 against Ikram who has informed the complainant about happening of the incident. Further, the applicant Hajra Bibi also moved an application to SHO PS Ittehad Town that on 18.01.2024, 4/5 unknown persons including present complainant came to her house and tried to dispossess her; as such, thy called the police helpline 15. Since the dispute is a matrimonial and it is yet to be determined which party has entered into the house and committed the offence when the evidence will be recorded. At bail stage, only tentative assessment is to be made.

7. In view of the above, learned counsel for the applicant has made out case for grant of bail in terms of subsection 2 of section 497 Cr.P.C. Resultantly, the instant bail applications are **allowed**. The interim pre-arrest bail granted to the applicants/accused vide orders dated 11.11.2024 and 31.10.2024 are 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 applicant/accused on merits.

JUDGE