

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.3041 of 2024

Applicant : i. Iqbal Mahmood S/o Muhammad Akbar Iqbal
ii. Waheed Ahmed S/o Sagheer Ahmed
through M/s. Saathi M. Ishaque & S.K. Lodhi,
Advocates

Complainant : Mufti Abdullah Noorani S/o Noor Muhammad
through Mr. Khalid Nawaz Khan Marwat,
Advocate

Respondent : The State
Through Mr. Muhammad Noonari, DPG

Date of hearing : 07.02.2025

Date of order : 07.02.2025

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicants/accused seek pre-arrest bail in Crime No.138/2024 for the offence under Sections 298-C/34 PPC registered at PS Baldia Town, after their bail plea has been declined by the learned IV. Addl. Sessions Judge, Karachi West vide order dated 16.11.2024.

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 the role assigned against the present applicants is that they are running and managing Mirzai Markaz, otherwise they have not committed any offence; that the co-accused are involved in convincing and inviting Muslim people to come inside ceremony. He further submits that no audio or video is available to believe that the present applicants are involved in convincing and inviting Muslim people, as such, the allegation against them is baseless. He further submits that punishment for the offence in which the present applicants have been booked does not fall within the prohibitory clause of Section 497 Cr.P.C.; as such, they are entitled for confirmation of bail.

4. On the other hand, Mr. Khalid Nawaz Khan Marwat, Advocate has filed Vakalatnama, which is taken on record. He vehemently opposes for grant of bail on the ground that in the Constitution of Pakistan, Mirzai are prohibited not to preach their religion even then the applicants are involved in convincing and inviting Muslim people to join their religion. He further submits that though the punishment for the said offence is three years but it is not bailable; that the applicants also admitted before the Police for committing the said offence, as such, they are not entitled for confirmation of bail. Learned DPG also opposes for confirmation of bail, however, he submits that PWs Abdullah Noorani, Hafiz Ghulam Sarwar, Molana Nasir and Muhammad Sadiq have deposed against other accused persons but they stated that the present applicants are only running and managing their Markaz.

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

6. From perusal of record, it reflects that the complainant party has seen the Mirzai, who were convincing and inviting Muslim people to come inside ceremony. About 150 persons were inside as could be guessed from motor cars standing outside, however, 4/5 persons having veiled on their faces were convincing outsiders for their religion. They were identified as Mubashar Ahmed, Nazia Maqsood, Fouzia, Bushra and under their instructions, present applicants Iqbal Mahmood and Waheed Ahmed, who were the organizer. On every Friday, they tried to convince Muslim people by bribing them to their Qadiani religion and try to injure feelings of Muslims so also violate the constitution. However, applicants present in Court denied the allegation that they were preaching for Ahmadi religion and submit that only allegation against them is that they are organizer of their Markaz. They further submits that neither they have preached for their religion nor invited any Muslims to join them. The offence in which the applicants have been booked does not fall within the prohibitory clause of Section 497 Cr.P.C.; grant of bail is right and refusal is expectation. No exception has been pleaded by the learned counsel for the complainant to refuse the bail to the applicants. Furthermore, four PWs have only implicated the present applicants being organizers of the Markaz. Learned counsel for the applicants also pleaded malafide on the part of complainant that due to dispute over the property, they have been implicated and

such Suit is also pending before this Court being C.S. No. 1951 of 2020 [KMC vs. Nazia Masood and others]; as such, on the basis of private dispute, they have been involved in this case. 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 31.12.2024 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