

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-1321 of 2024

Applicants: Zaheer Ali Son of Ghulam Rasool Khaskheli and Maqbool Laghari
Son of Sher Muhammad Laghari.
Through Mr. Shabeer Hussain Memon, Advocate.

Respondent: The State
Through Ms. Sobia Bhatti, A.P.G.

Date of hearing: 25.03.2025
Date of order: 25.03.2025

ORDER

Syed Fiaz ul Hassan Shah, J: Through instant bail application, above named applicants seek their admission to post arrest bail in Crime No.244 of 2024 registered under sections 398 and 401 PPC, with P.S Matli, District Badin. After the arrest applicants preferred their bail plea before the Court of Additional Sessions Judge Matli vide Criminal Bail Application No.1838 of 2024 (Re-Zaheer Ali and another Vs. The State) and same was dismissed vide order dated 29.11.2024; hence, instant bail application has been maintained.

2. Since the facts of prosecution case are already mentioned in F.I.R as well as impugned order passed by the Additional Sessions Judge-II/GBV/Anti-Rape Mirpurkhas, therefore, there is no need to reproduce the same.

3. It is contended by the counsel for the applicants that the prosecution has alleged that applicants were blocking the road however they were not arrested at spot and police has subsequently arrested them, therefore, it is a case of attempt to robbery as no articles has been robbed as per admitted facts of the prosecution. He further contends that even no recovery of articles or crime weapon has been made; that challan has been submitted before the Trial Court, the applicants are no more required for investigation and there is no apprehension that the applicants are attempting to temper or destroy the prosecution's evidence.

4. On the other hand, learned APG opposed the bail application on the ground that applicants have been nominated in the FIR with specific role and are also involved in Crime No.245 of 2024 under section 381-A PPC.

5. I have heard the learned counsel for parties and perused the record.

6. It is admitted fact that although the allegations set-forth in the FIR pertains that applicants were involved in the commission of offence for robbing the passerby vehicles at the road approaching Sanjar Chang to Zardari road within the jurisdiction of PS Matli, however the applicants have not been arrested from the crime scene. It is also an admitted fact that neither any valuable articles or security has been recovered or advanced by the prosecution nor any crime weapon is involved or even the column No.6 of the case property is vacant as such basic ingredient of provisions of section 398 PPC that is duly armed with weapon for robbing valuable security or articles from the citizens is lacking. Another interesting thing is that applicants have been nominated in the FIR while according to the prosecution the police mobile was approaching to the Zardari road within the jurisdiction of PS Matli. Strangely, the prosecution has not given any reason or justification as to how and in what manner they have to know the names of the accused / robbers without having familiarity or first known or acquaintance with them. So far as the Crime No.245 of 2024 is concerned which is a subsequent FIR under section 381-A PPC lodged against the applicants, therefore, the allegations are yet to be proved after recording evidence of the prosecution. Even the challan has been submitted before the Trial Court and applicants are not required for investigation. It is not case of the prosecution that applicants if released on bail will temper or destroy the evidence or any apprehension to threat the prosecutions' witnesses. In view of the above, the learned counsel for the applicants has made out a case for grant of bail, therefore, the bail application is **allowed**. Consequently, the applicants are granted concession of post arrest bail subject to furnishing their solvent surety in sum of Rs.100,000/- each and P.R bonds in the like amount, to the satisfaction of Trial Court.

7. Needless to say that any finding given or the observations recorded herein-above, it is only for the purpose of deciding this bail application, which will not affect the merits of case before the Trial Court in any manner and the Trial Court will try the case without being influenced from any observation.

JUDGE