

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR*Criminal Bail Appln. No.152 of 2025****Applicants***

Chaneesar,

Zameer Ali

& Fida Hussain.

: through Mr. Shakeel Ahmed Ansari
Advocate.***The State***: through Syed Sardar Ali Shah,
Addl.P.G. Sindh for State.

Date of hearing. : 16.05.2025

Date of Order. : 16.05.2025

ORDER

Ali Haider 'Ada', J. Through this bail application, the applicants/accused, namely Chanessar, Zameer Ali, and Fida Hussain, seek the grant of pre-arrest bail in Crime No. 19 of 2024, registered under Section 379 PPC read with Section 26-A of the Forest Act, at Police Station Kot Mitha Khan, District Naushero Feroze. The alleged incident is stated to have occurred on 19.12.2024, whereas the FIR was lodged on 20.12.2024.

2. As per the contents of the FIR, the complainant, Abdul Shakoor, who serves as a Forest Officer, reported that on 19.12.2024, he, along with visiting Forest Guards, was performing his duty to oversee the forest area. At about 1200 hours, while patrolling near Chokri No. 3 and 4, they observed the accused persons, namely Chanessar, Majid, Zameer, and Fida Hussain, cutting trees and loading the timber into a loader vehicle. Upon closer inspection at Chokri No. 3, the complainant noted that ten *Babur* trees and fifteen *Kandi* trees had been cut down and were found missing. Subsequently, the complainant proceeded to Police Station Kot Mitha Khan, where he lodged the FIR accordingly.

3. Learned counsel for the applicants/accused submits that the FIR has been lodged with an unexplained delay of one day, which casts doubt on the veracity of the prosecution's case, particularly in the absence of any plausible justification for such delay. He further contends that the complainant failed to mention any specific description of the loader rickshaw allegedly used in the commission of the offence, nor did he disclose the time of his departure from the office on the day of the incident. He contends that the provisions of Section 26-A of the Forest Act are not attracted in the present case, and thus, the possibility of false implication of the applicants/accused cannot be ruled out.

4. Learned Additional Prosecutor General appearing on behalf of the State opposes the bail application and submits that the applicants/accused are specifically nominated in the FIR with a clear and definite role in the commission of theft involving valuable forest trees from government land. He further contends that the accused were properly identified during daylight hours at the scene of the incident, and the stolen timber is yet to be recovered from their possession.

5. Heard the learned counsel for the parties and have carefully examined the material available on record.

6. A bare perusal of the FIR reflects that the applicants/accused have been attributed the role of cutting and removing trees from forest land. However, certain legal and factual aspects of the case raise doubts regarding the sustainability of the prosecution's version at this stage. Firstly, there is an unexplained delay of one day in lodging the FIR, which casts doubt on the narrative presented by the complainant. No plausible explanation has been offered for this delay, which is significant given the alleged commission of a

cognizable offence involving state property. Such delay may reasonably be viewed as an opportunity for deliberation or consultation, which weakens the prosecution's case at this pre-arrest stage. Reliance is placed upon the case of *Mazhar Ali v. The State*, 2025 SCMR 318.

7. Secondly, the applicants have been implicated solely on the statement of the complainant, while the statements recorded under Section 161 Cr.P.C., as mentioned, are from official subordinates of the complainant, and therefore cannot be considered entirely independent.

8. Thirdly, with regard to the application of Section 26-A of the Forest Act, it is pertinent to examine its scope. Section 26-A pertains to the removal of encroachments or other unauthorized occupation of Reserved Forests. A plain reading of the FIR and accompanying material does not reveal any allegation that the applicants/accused had encroached upon, occupied, or attempted to possess any part of the Reserved Forest. The allegation is limited to the act of cutting trees, which, while an offence, does not per se amount to encroachment within the contemplation of Section 26-A. Therefore, at this stage, the applicability of Section 26-A appears to be doubtful and may not be justifiably invoked against the applicants.

9. As for Section 26 of the Forest Act, it deals with acts prohibited in Reserved Forests, such as setting fire, trespassing, or causing damage, including cutting or felling trees. It is noteworthy that the punishment prescribed therein is limited to a term of imprisonment up to six months or with fine, or both. Given the relatively less severe nature of the offence under this Section, coupled with the lack of recovery and absence of strong corroborative material at this stage,

the case against the applicants requires further scrutiny at trial and does not, at present, justify the denial of pre-arrest bail.

10. It is a settled principle of law that while considering a bail application, the Court is required to tentatively assess the entire material available on record, rather than confining its examination solely to the contents of the FIR. The purpose of such assessment is to determine whether there are reasonable grounds to believe that the accused has committed the alleged offence. A general view of the record must be taken at the bail stage, including statements, documentary evidence, and any other material presented by the prosecution. In this regard, reliance is placed on the case of *Muhammad Atif v. The State and another* 2024 SCMR 1071.

11. In view of the foregoing discussion, I am of the considered opinion that the applicants/accused have succeeded in making out a prima facie case for confirmation of pre-arrest bail within the contemplation of sub-section (2) of Section 497, Cr.P.C. Accordingly, the instant bail application is allowed. Consequently, the interim pre-arrest bail already granted to the applicants/accused vide order dated 24.02.2025 is hereby confirmed on the same terms and conditions.

12. However, it is made clear that the learned trial Court shall be at liberty to initiate appropriate legal proceedings, including cancellation of bail, if the applicants/accused are found misusing the concession of bail or attempting to interfere with the course of justice in any manner.

13. Needless to mention, the observations made hereinabove are purely tentative in nature and shall not prejudice or influence the learned trial Court in

any manner whatsoever. The trial Court shall decide the case strictly on its own merits, based on the evidence and material that may be brought before it during the course of trial.

14. In view of the above, the bail application stands disposed of in the foregoing terms.

J U D G E

Ihsan/PS.