

**ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

Criminal Bail Application No.S-389 of 2021.
Criminal Bail Application No.S-467 of 2021.

| | |
|-------------|--------------------------------------|
| DATE | ORDER WITH SIGNATURE OF JUDGE |
|-------------|--------------------------------------|

1. For orders on office objection
2. For hearing of main case

22.10.2021.

Mr. Aijaz Hussain Jatoi advocate for the applicants.

Mr. Muhammad Ali Rind advocate for the complainant.

Mr. Nazar Muhammad Memon, Additional Prosecutor General.
Applicants are present on interim pre-arrest bail.

ORDER

MUHAMMAD IQBAL KALHORU, J:- Applicants, father and son, have been nominated by the complainant in the present FIR with the allegation that on the day of incident viz. 14.03.2021, when he and PWs were present over their land they alongwith other accused came over there and after abusing and beating robbed them of Rs.5,000/- and took away 42 bags of wheat.

Learned counsel for the applicants has argued that the applicants are innocent and have been falsely implicated in this case; that there is delay in registration of FIR; that infact the complainant party had set house of the accused/applicants on fire regarding which an application under Section 22-A & B Cr.P.C. and petition before this Court was filed for registration of FIR; that the injury attributed to the applicant Azizullah isailable.

Learned counsel for the complainant has opposed bail by stating that applicants are hardened and desperate criminals and they committed robbery from the complainant party, therefore, they are not entitled to the concession of bail.

Learned Additional Prosecutor General has submitted that although there is criminal record of applicant Azizullah but no recovery has been effected, and the trial court while framing charge has substituted Section 395 PPC with Section 392 PPC.

I have heard learned counsel for the parties and perused the material available on record.

Although the applicants are nominated in the FIR but it was registered on 01.04.2021 after more than 15 days regarding which no explanation has been forwarded by the complainant. The injury attributed to applicant Azizullah is bailable. There is previous litigation between the parties and the complainant's counsel has admitted that the accused before registration of FIR had already filed a complaint under the Illegal Dispossession Act, 2005 against the complainant party. The trial Court has replaced section 395 PPC with section 392 PPC in the charge. All these factors, if taken into consideration, will make the case against the applicants to be of further inquiry and their false implication thus cannot be ruled out.

Accordingly, in the light of what has been stated above, both the applications are allowed and ad-interim pre-arrest bail granted to the applicants vide order 19.05.2021 and 11.06. 2021 are hereby confirmed on the same terms and conditions.

The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE