

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Criminal Bail Application No.S-235 of 2025

Applicants : (1) Muhammad Hassan s/o Abdul Ghafoor
(2) Nihal s/o Muhammad Murad
Through Mr. Saeed Ahmed Bijarani,
Advocate

Complainant : Through Mr. Ashique Hussain Kalhoro,
Advocate.

Respondent : The State
Through Mr. Nazir Ahmed Bhangwar,
Deputy Prosecutor General.

Date of hearing : 14.07.2025

Date of order : 14.07.2025

ORDER

KHALID HUSSAIN SHAHANI, J.— Through this bail before arrest application filed under Sections 498 and 498-A Cr.P.C, applicants Muhammad Hassan and Nihal seek confirmation of interim pre-arrest bail granted to them by this Court vide order dated 05.05.2025, in Crime No. 37/2025 registered at Police Station Karampur, District Kashmore at Kandhkot, for offences under Sections 435, 436, 427, 114, 506/2, 147, 148, and 149 PPC.

2. Briefly stated, the facts of the case as narrated in the FIR lodged by complainant Nizamdin are that on 22.04.2025 at about 9:00 p.m., he along with Altaf Hussain and Jameel Ahmed was present at his wheat crop Dera near his house when accused Najamdin, Muhammad Hassan, Ameer Muhammad, Nihal Din, Taufique Ahmed, and three unidentified persons allegedly arrived armed with firearms, lathis, and a petrol can. It is alleged that accused Ameer Muhammad instigated the others, upon which accused Nihal Din sprinkled petrol over the wheat crop and fence, and the co-accused set them on fire. As a result, wheat crop over 10 Jarebs, fencing, and cattle shed were destroyed, causing a loss of

about Rs.550,000. The accused also allegedly resorted to aerial firing and issued threats before fleeing the scene.

3. Learned counsel for the applicants contended that the applicants have been falsely implicated due to a longstanding enmity between the complainant and their relative, one Sahab Dino Bajkani. He submitted that this case is a counterblast to FIR No.30/2025 registered at the same police station, Karampur, by Qadar Hussain relative of the present applicants against the complainant party, in which it is alleged that the complainant party of the instant FIR had set fire to the Dera of the accused party. The complainant party is presently on bail in the said case, as granted by the learned Sessions Judge, Kashmore at Kandhkot.

4. The learned counsel further argued that the present FIR suffers from unexplained delay of over 24 hours, despite the police station being located at a distance of only 15-16 kilometers. He also questioned the reliability of identification at night by torchlight and solar bulbs. It was urged that the offence under Section 436 PPC has been misapplied, as no residential dwelling was damaged. He emphasized that all witnesses are closely related to the complainant and are thus interested, and that the case, in light of these aspects, calls for further inquiry.

5. Conversely, Mr. Nazeer Ahmed Bhangwar, learned Deputy Prosecutor General, vehemently opposed the confirmation of bail, contending that the applicants are nominated with specific roles and that the gravity of allegations warrants custodial interrogation. He submitted that the offence is serious and the applicants may influence the investigation.

6. Mr. Ashiq Hussain Kalhoro, Advocate for the complainant, also opposed the bail, arguing that the applicants are habitual offenders and had earlier obtained pre-arrest bail in Crime No.25/2025, but repeated similar conduct, indicating their culpability and intent to frustrate justice. He expressed apprehension that if granted bail, they may tamper with prosecution evidence.

7. I have considered the arguments of both sides and have perused the record with their able assistance.

8. The existence of prior enmity is evident. The lodging of FIR No. 30/2025 by Qadar Hussain against the complainant party regarding the setting of fire to the Dera of the accused, and the fact that the complainant party is on bail granted by the Sessions Court, lends credence to the assertion that the present case may be retaliatory in nature.

9. The allegations rest largely on identification at night using torchlight and solar bulbs, which, while not inadmissible per se, constitutes a weaker form of evidence and further fortifies the need for deeper scrutiny. The delay in lodging the FIR, although explained, also remains a relevant factor. Furthermore, the allegation that structures set on fire included fencing, wheat crop, and cattle shed, not a dwelling house suggests that the application of Section 436 PPC may not be well-founded and other sections do not fall within the ambit of prohibitory clause of 497(1) Cr.P.C and bail in such like cases is a rule and its refusal an exception.

10. In view of the above discussion, particularly the background of admitted enmity, existence of counterblast case, delay in FIR, weak identification at night, and the debatable application of Section 436 PPC, I am of the view that the applicants have made out a case for confirmation of bail before arrest.

11. Consequently, the interim pre-arrest bail earlier granted to the applicants Muhammad Hassan and Nihal vide order dated 05.05.2025 is hereby confirmed on the same terms and conditions with the direction to join investigation/trial.

12. Needless to mention, the above observations are tentative in nature and shall not affect the case of either party at trial.

JUDGE

Asgar Altaf/P.A