

## ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Bail Appln. No. S-219 of 2024

Applicant Muhammad Ishfaq s/o Muhtaque  
Ahmed Maittlo  
Sabir s/o Muhammad Anwar Maittlo  
  
through Mr. Sohail Ahmed Maittlo,  
Advocate

The State Mr. Aitbar Ali Bullo, D.P.G for the  
State

Date of hearing: 20-05-2024

Date of Order: 20-05-2024

**SHAMSUDDIN ABBASI, J.-** Through instant criminal bail application the applicants/accused Muhammad Ishfaq Maittlo and Sabir Maittlo, seek post-arrest bail in Crime No. 36/2024, registered at Police Station Kashmore, for the offence U/S 399, 402 P.P.C, after rejection of their bail plea by the learned trial court vide order dated: 27.03.2024.

2. The facts of the prosecution case are that on 08.03.2024 complainant H.C Wasoo Khan Mazari, lodged the F.I.R stating therein that he was on duty along with his staff, he received spy information that 5 notorious culprits were available at Farooqi Bagh with intention to commit some offence, the complainant proceeded there and saw that applicants/accused armed with T.T pistols and three unidentified persons armed with guns were present to commit some offence, after seeing the persons fled away taking the shelter of jungle, complainant returned back to P.S, where he lodged the F.I.R as stated above.

3. Learned counsel for the applicants/accused has contended that applicants/accused are innocent and they have falsely been implicated in this case; that no any specific role for causing fire arm injury has been assigned to applicants accused except that mere presence; that the applicants were not arrested from the scene of offence but allegedly have been arrested on 12.03.2024; that no any incriminating article has been recovered from the possession of applicants as such the case of applicants calls for further inquiry in terms of

Section 497(2) Cr.P.C. He has, therefore, prayed for grant of post-arrest bail to the applicants/accused.

4. On the other hand, learned Deputy Prosecutor General has vehemently opposed for grant of bail on the ground that applicants are nominated in heinous offence, therefore, they are not entitled for any leniency and prayed for dismissal of their bail application.

5. Heard learned counsel for the applicants, learned D.P.G. and perused the material available on the record.

6. Admittedly, as per prosecution case the police party proceeded to the place of incident on advance information but neither they joined any private person in proceedings nor any person from the public came forward to complain that he has been robbed. Furthermore, there is nothing on record to show that the applicants accused belong to gang of thieves or dacoits, even no record has been produced by prosecution in order to establish the case against the applicants. The offence for which the applicants are charged does not come within the prohibitory clause of Section 497 Cr.P.C except Section 399 P.P.C, which too requires evidence to prove the intention and preparation for dacoity. All the P.Ws are police personals. I am of the considered view that the case of applicants requires further inquiry in terms of Section 497(2) Cr.P.C.

7. From the tentative assessment of the material available on record, it appears that the applicants/accused have made out a good prima facie case for further enquiry, therefore, they are entitled for grant of post-arrest bail.

8. Accordingly, instant bail application is hereby allowed. Applicants/accused are admitted on post-arrest bail subject to their furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty thousand) each and P.R bond in the like amount to the satisfaction of learned trial court.

9. 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 either party at trial.

**J U D G E**

Abdul Salam/P.A