

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Bail Application No. S- 188 of 2018

Mir Muhammad and others.....Applicants

Versus.

The State..... Respondent

For Hearing of bail application.

Mr. Shabbir Ali Bozdar Advocate along with applicants.

Mr. Ali Gul Abbasi Advocate for the complainant.

Mr. Abdul Rehman Kolachi, Deputy P.G for the State.

Date of hearing: 01-04-2019

Date of decision: 01-04-2019

ORDER

ZAFAR AHMED RAJPUT J., Through instant Crl. Bail Application, applicants/accused Mir Muhammad s/o Rab Dino, Akram Ali s/o Mir Muhammad and Zafar Ali s/o Mir Muhammad have sought pre-arrest bail in Crime No. 30 of 2018 registered at P.S, Pano Akil under Sections 506/2, 147, 148, 149, 452, 365-B, 114, 337A(i) & 337F(i) P.P.C. The applicants were admitted to ad-interim bail by this Court vide order dated 09.03.2018, now they seek confirmation of the same.

2. Briefly stated, the facts of the case, as narrated in the FIR, lodged on 05.03.2018 by complainant Hub Ali, are that his sister Mst. Samina got married with Akram about four years back and later on being divorced she was residing with him; that on 04.03.2018 at about 08-30 p.m while he along with his brother Aijaz Ahmed, sisters Khushboo, Saira, mother Mst. Sakina and other family members was available in the house, accused Akram, Zafar, Inam, Tarique, Mir Muhammad and one unidentified accused with open face and armed

with pistols trespassed the house; that applicant Mir Muhammad instigated other accused to teach a lesson to complainant party who caused kicks and fists blows to Khushboo, Saira and Sakina and on the force of weapons, they locked them in a room and then applicant Akram dragged Mst. Samina and after maltreating threw her in Suzuki and took away her by issuing threats of causing murder. They saw Mst. Saira sustained injuries on her left side of neck while Mst. Sakina received hidden injuries.

3. Learned counsel for the applicants has mainly contended that the applicants are innocent and have falsely been implicated in this case due to dispute over ancestral property; that Mst. Sakina is real sister of applicant Mir Muhammad and ex-mother-in-law of applicant Akram Ali; that there is delay of one day in lodging of FIR which has not been explained by the complainant and hence consultation and deliberation in lodging of FIR cannot be ruled out; that alleged abductee was shown recovered on 09.03.2018 from link road “Malkan Ji Chodagi” near village Haji Molodi, hence prosecution story is false and fabricated and the guilt of the applicants requires further enquiry; that Section 365-B P.P.C does not attract so far facts of the case are concerned; that the alleged injuries are not on the vital part of the bodies of the injured persons.

4. On the other hand, learned counsel for the complainant has vehemently opposed the confirmation of interim bail of the applicants on the grounds that the applicants are nominated in the FIR by their

names with specific role. He has, however, admitted that there is no allegation of committing Zina with Mst. Saima.

5. Learned Deputy P.G states that the complainant and accused party are close related inter se and there is no independent witness of the incident, therefore, guilt of the applicants requires further enquiry.

6. I have given my anxious consideration to the contentions of learned counsel for the applicants, complainant and DPG as well as perused the material available on record.

7. It is an admitted position that the FIR has been lodged by the complainant with the delay of one day and no plausible explanation has been furnished by the complainant in this regard though accused persons have been nominated in the FIR by their names, but mentioning of names of accused in F.I.R in all circumstances could not be made a ground of justify rejection of bail. It appears that the offences under Sections 337A(i) and 337F(i) P.P.C are bailable while offence under Sections 506/2 and 452 P.P.C do not fall within the prohibitory clause of Section 497 Cr.P.C. So far applicability of Section 365-B P.P.C is concerned, it is admitted that Mst. Saima was ex-wife of applicant Akram, hence her abduction with intention that she might be compelled to marry against her will/etc, is yet to be determined by the trial court after recording the evidence; hence the guilt of the applicants requires further enquiry. The applicants were admitted to interim bail by this Court and there is no compliant with regard to misuse of concession of interim bail by the applicants.

Challan has already been submitted against the applicants, hence they are no more required by the police for further investigation.

8. For the foregoing facts and reasons, interim pre-arrest bail earlier granted to the applicants vide order dated 09.03.2018 is confirmed on same terms and conditions.

9. Needless to mention here that the observations made hereinabove being tentative in nature would not effect the case of either party.

JUDGE