

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Bail Application No.S-51 of 2024.

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on O/objection at flag-A.
2. For hearing of bail application.

Date of hearing **09.09.2024.**

Mr. Ghulam Shabir Shar, Advocate for applicants/accused.

Mr. Safdar Ali Bhatti, Advocate for complainant.

Mr. Khalil Ahmed Maitlo, DPG for State.

ORDER

Applicants Liaqat Ali and Muhammad Ali alias Biloo shar seek Pre-arrest bail required in Crime No.272/2023 registered at Police Station, Mirwah for offence under Sections 324, 337A(i), 337H(ii), 447, 511, 147, 148, 149 PPC.

According to the FIR lodged by complainant Muhammad Siddique on 15.12.2023 at 2000 hours at Police Station Mirwah (*relevant and abbreviated for this bail application*) stating that accused Liaqat Ali made direct fire from pistol upon his brother-in-law Saeed Ahmed on his right leg knee while accused Muhammad Ali alias Biloo made pistol fire with intention to commit his murder which hit the said Saeed Ahmed on his right leg whereas accused Hamadullah made pistol fire upon Saeed Ahmed on his left leg and the accused Abdul Karim made fire from pistol with intention to commit murder of Saeed Ahmed on left leg and blood was oozing who fell down on the ground. It is alleged that accused Nadeem caused but blow to Waheed Ahmed on his head and whereas accused Shoib Ahmed caused Iron rod blow on his brother-in-law

Waheed on his head and blood was oozing who raised cries and fallen down on ground thereafter on fire shot reports co-villagers came running by giving hakals to them and on seeing them accused persons made aerial firing for creating terror and harassment ran away towards eastern side. The complainant then with the help of villagers brought injured persons at Police Station, obtained letter for medical treatment, and then appeared at Police Station where he got the FIR lodged.

Learned counsel for applicants contends that there is two days delay in lodging of the FIR; that admittedly dispute being present the enmity calls for false implication of the present applicants. He further contends that *malafide* on part of the complainant is present on account of the complainant failing to mention about the FIR against the complainant party in the present FIR. He further contends that no injury to any vital part has been alleged and it is not a case restricted by the prohibitory provision and as such bail is an entitlement, in this regard he referred to cases of *Khalil Ahmed Soomro v. The State (PLD 2017 Supreme Court 730)*, *2. Abdul ghani Lashari v. The State (2020 P.Cr.LJ Note 70)* and *Kazim Ali and others v. The State and others (2021 SCMR 2086)*. In respect to the case law learned counsel submit that where the sections are not covered by the prohibitory clause bail is liable to be considered.

Learned counsel for the complainant, however, contends that specific role has been mentioned of the present applicants which has caused severe injuries to the victim. He further contends that no *malafide* is can be attributed as the aggressive party as they were present in the land of the complainant which was having required to be sold by force by them. He further contends that no illegality in the order of the bail rejection as passed by the lower forum has been shown. That the

mandatory requirement of *malafides* for pre-arrest bail are not shown as such the said concession may not be available. He further contends that the sections having been charged against present applicants are well covered by the prohibitory clause.

Learned Deputy Prosecutor General also contends that specific role has been assigned to the present applicants, empties were recovered from the place of the incident; that the delay has been explained as the complainant was attending to the wounded and it is further contended that the present applicants are restricted by the prohibitory clause of Section 498 Cr.P.C, He has referred to reported case of *Qayoom Khan v. The State & others (2022 SCMR 273)*.

In rebuttal, learned counsel for applicants contends that the MLO in the matter is describing the wounds after two days and as such the applicants be considered for bail.

Having heard learned counsels and gone through the record of which MLO was looked into wherein two firearm injuries are present which apparently are attributed to the present applicants causing fractures to the victim. This being bail application only a tentative assessment is to be made. The sections applicable against the present applicants are apparently not only restricted by provision of Section 498 Cr.P.C. The *malafides* which are mandatory to be shown and present the case of pre-arrest bail entertainment is also found absent. Learned counsel for the complainant though had also contended that both the legs of the victim are no longer available to him as the medical report is not describing the sides of the wounds/legs such assertion could not be made by this Court however, the trial Court definitely will be in a better position to have a proper understanding of this aspects. Accordingly,

subject application is not found tenable and same is found liable to be dismissed, the interim order dated 22.01.2024 stands recalled and the application stands dismissed. Applicants are directed to surrender themselves before the trial Court and face the trial.

Needless to mention here that observations made herein above are tentative in nature and trial Court may not be influenced of the same and decide the case on its merits.

Bail application stands disposed of in the above terms.

J U D G E

Ihsan/PS.