

93

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Cr. Bail Appln. No.S-169 of 2022

Date of Hearing	ORDER WITH SIGNATURE OF JUDGE
21.04.2022.	

1. For orders on office objection.
2. For hearing of Bail Application.

Mr. Gulshan R. Dayo, advocate for the applicants, along with applicants on bail.

Mr. Ali Anwar Kandhro, Addl. P.G.

Through this application, applicants Aftab Hussain, Altaf Ahmed, Ahsan Ali, Ghufran Ahmed, Bilawal and Babar, all by caste Rind, seek pre-arrest bail in Crime No.23/2022 registered with Police Station Allahabad, Larkana, for offences punishable under Sections 447, 506/2, 114, 337-F(vi), 337-H(2), 441, 147, 148, PPC. Such their request was turned down by the learned III-Additional Sessions Judge/MCTC, Larkana vide order dated 26.3.2022.

According to the case of prosecution, on 08.3.2022, at 1.30 p.m., near saline drain situated on the road leading towards Rind Colony, Larkana, accused persons, namely, 1) Aftab, 2) Altaf, 3) Sarfraz, 4) Ahsan, 5) Ghufran, 6) Bilawal, all by caste Rind, 7) Mairaj Shaikh, and 8) Babar Rind, caused kicks and fist blows and repeater butt blows to complainant Tarique Ali Rind, breaking his right side leg. After obtaining letter from police for treatment and getting treatment from private doctor, the complainant approached the police and lodged FIR with police on 18.3.2022.

Learned Counsel submits that the applicants have been arrayed by the complainant in this case on account of dispute over plot; besides, the sections applied in the FIR carry maximum punishment upto 07 years, hence the offence does not fall within prohibitory clause of Section 497, Cr.P.C. He next submits that the FIR is delayed for about 10 days, for which no explanation has been furnished by the prosecution, hence case against the applicants required further enquiry.

Learned Addl. P.G. submits that all the offences are bailable except Sections 506/2 & 337-F(vi), PPC, which carry maximum punishment upto 07 years. He, therefore, submits that he would not oppose the bail

98

application except applicant Ahsan Ahmed, as he has been assigned the role of causing butt blows to the complainant.

The complainant inspite of notice has chosen to remain absent.

Admittedly, the incident as is evident from FIR has taken place on 08.3.2022, whereas FIR was lodged on 18.3.2022 i.e. with the delay of about 10 days and the distance between the place of occurrence and police station as shown is 01 kilometer; however, no explanation has been furnished for such an inordinate delay. The sections applied in the FIR carry maximum punishment upto 07 years. As far as contention of learned Addl. P.G that applicant Ahsan Ali allegedly caused repeater butt blows to complainant on his person is concerned, the medical evidence does not show whether said injuries were detrimental for the life of injured complainant or otherwise. The case is being tried by the Court of Judicial Magistrate, where after recording evidence of the prosecution witnesses, if prosecution may succeed to prove it's charge against the accused, even then punishment of more than 03 years cannot be visualized. In the circumstances and in view of the dicta laid down by the Hon'ble Supreme Court of Pakistan in the cases reported as *Khalil Ahmed Soomro v. The State* (PLD 2017 SC-730) and *Muhammad Tanveer v. The State* (PLD 2017 SC-733), case against the applicant requires further enquiry. Consequently, the bail application is hereby allowed. Interim pre-arrest bail already granted to the applicants is confirmed on same terms and conditions. Applicants are directed to continue their appearance before the trial Court.

JUDGE

