

ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Crl. Bail Appln. No. S- 115 of 2019.

Date of hearing	Order with signature of Judge
08.03.2019.	

1. For orders on office objections.
2. For hearing of bail application.

Mr. Muhammad Jehangir Siddiqui, Advocate for applicants.
 Mr. Sharafuddin Kanhar, A.P.G.

Muhammad Saleem Jessar, J: Through this application, applicants Muhammad Raheem, Imamuddin and Nek Muhammad have sought for to pre-arrest bail in F.I.R No.04/2019, registered with P.S Mubarakpur, for offences punishable under Sections 457 and 380 P.P.C.

The allegation against applicants is that, during night of 11.01.2019, they trespassed into house of complainant and stolen away his cow. The complainant lodged F.I.R of the incident on 13.01.2019.

Learned counsel for applicants mainly contended that, F.I.R is delayed for two days; that alleged incident has taken place in dark hours of night, and source of identifying the culprits has been shown as bulb light, which is very weak type of source, as such mistaken of identity cannot be ruled out. Per learned counsel the stolen cow has not been recovered from physical possession of any of applicants; that the case is pending trial before learned Magistrate, as such punishment for more than three years is not visualized, in case, if, prosecution succeeds in proving the case.

Learned A.P.G opposed confirmation of interim pre arrest bail to applicants on the ground that they are nominated in F.I.R and that stolen cow was recovered near from their house, which connects them with commission of alleged offence.

I have heard the learned counsel for the applicant, learned A.P.G. and perused the material with their able assistance.

It appears that, F.I.R is delayed for about two days; though according to contents of F.I.R the complainant party identified the culprits on spot, yet they did not report the matter to police promptly. This sole ground of lodging report with delay makes the case doubtful. The alleged incident is allegedly to have taken place during odd hours of night and source of identifying the culprits is weak, as such mistaken of identify cannot be ruled out. Recovery of stolen cow has been shown from near the house of applicants; as such it cannot be said that recovery has been affected from physical possession of any of applicants. Moreover, the applicants have already joined the trial and attending the trial Court and no purpose would be served if the applicants are refused pre-arrest bail and ultimately granted post-arrest bail.

A tentative assessment of above facts and circumstances makes the case, as one of further enquiry in terms of subsection (2) of Section 497 Cr.P.C., entitling the applicants for grant of bail. Accordingly, instant application stands allowed. Consequently, interim pre-arrest bail already granted to applicants vide Order dated 25.02.2019, is hereby confirmed on same terms and conditions.

Needless to mention here that, observations made hereinabove are tentative in nature and would not influence trial Court while deciding the case.

JUDGE

Ansari/*