

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-1025of 2020

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For orders on office objections.
2. For hearing of main case.

24.02.2021.

Mr. Ali Akbar Buriro, Advocate along with applicants.
Ms. Sobia Bhatti, A.P.G for State.
Mr. Ghulam Murtaza Laghari, advocate for
complainant.

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Irshad Ali Shah J.- It is alleged that the applicants cut down and taken away 20 trees of complainant Muhammad Rafique from his landed property, for that the present case was registered

2. The applicant on having been refused pre-arrest bail by learned Additional Sessions Judge-IV, Dadu have sought for the same from this Court by way of instant application under section 498 Cr.P.C.

3. It is contended by learned counsel for the applicants that the applicants being innocent have been involved in this case falsely by the complainant on account of his dispute with them over partition of property; the offence alleged against the applicant is not falling within prohibitory clause of section 497(2) Cr.P.C and co-accused Muhammad Saleem and Asghar

have already been admitted to bail by learned trial Magistrate. By contending so, he sought for pre-arrest bail for the applicants on point of further enquiry and malafide.

4. Learned Assistant Prosecutor General for the State and learned counsel of for the complainant have opposed to grant of pre-arrest bail to the applicants by contending that they have actively participated in commission of incident.

5. I have considered the above arguments and perused the record.

6. The FIR of the incident has been lodged with delay of about two days; such delay could not be overlooked. The offence alleged against the applicant is not falling clause of section 497(2) Cr.P.C. The parties being related interse are disputed over partition of their property. The case has finally been challaned. The applicants have joined the trial. Co-accused Muhammad Saleem and Asghar have already been admitted to bail by learned trial Magistrate. In these circumstances, no useful purpose would be served, if the applicants are taken into custody and then are admitted to bail on point of consistency.

7. In case of *Muhammad Ramzan vs. Zafarullah and others* (1986 SCMR-1380), it was held by the Honourable Court that;

“No useful purpose was likely to be served if bail of the accused is cancelled on any technical ground because after arrest he could again be allowed bail on the ground that similarly placed other accused were already on bail.”

8. In view of above, the interim pre-arrest bail already granted to the applicants is confirmed on same terms and conditions.

9. The instant bail application is disposed of accordingly.

JUDGE

Ahmed/Pa.