

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Cr.B.A.No.S-934 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For hearing of main case.

15.11.2019.

Mr. Meer Ahmed Mangrio, advocate along with applicants.

Ms. Rameshan Oad, A.P.G for the State.

Complainant in person

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Irshad Ali Shah J;- It is alleged that the applicants with rest of the culprits after having been formed an unlawful assembly and in prosecution of their common object caused hatchet, laties and iron rod blows to PWs Muhammad Nawaz, Muhammad Bux and Zulfiqar with intention to commit their murder and then went away by insulting and threatening complainant Hussain Bux and others, for that the present case was registered.

2. The applicants on having been refused pre arrest bail by the learned 3rd Additional Sessions Judge, 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 the learned counsel for the applicants that the applicants being innocent have been involved in this case falsely by the complainant party in order to satisfy their grudge against the applicant; the FIR has been lodged with delay of about one day and co-accused

Mushtaque Ahmed and three others have already been admitted to bail by learned trial Court. By contending so, he sought of pre-arrest bail for the applicants on point of malafide and consistency. In support of his contention he relied upon case of ***Muhammad Tanveer vs The State and another (PLD 2017 Supreme Court 733)***, ***Sultan and 6 others vs The State (2018 YLR Sindh 204)***, ***Inspector Abdullah vs Civil Judge and Judicial Magistrate No.II, Badin and another (2011 YLR Karachi 1736)***.

4. Learned A.P.G for the State who is assisted by the complainant in person has 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 one day, such delay could not be lost sight of. The 161 Cr.P.C statements of the PWs have been recorded with further delay of one day even to FIR without any plausible explanation to such delay. None of the injured on medical examination was found sustaining injury with sharp cutting weapon, which appears to be significant. The parties are already disputed. Co-accused Mushtaque Ahmed and three others, who are said to be part of unlawful assembly have already been admitted to bail by learned trial Court. In these circumstances, it is rightly being contended by learned counsel for the applicants that they are entitled to be admitted to pre-arrest bail on point of malafide and consistency.

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

8. The instant application is disposed of accordingly.

JUDGE

Ahmed/Pa