

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**Criminal Bail Application No.1395 of 2021**

---

*Date* *Order with signature of Judge*

---

*For hearing of Bail Application.*

**16.09.2021**

Ms. Uzma Rafiq, Advocate along with Applicants (on bail).  
Ms. Rahat Ehsan, Addl. Prosecutor General, Sindh.

**ORDER**

**Muhammad Saleem Jessar, J:-** Through this application, applicants Akbar Ali, Abdul Karim and Muhammad Hassan seek their admission on pre-arrest bail in Crime No.188/2021 of Police Station Kalri, under Section 337-F(i)(vi)/34 PPC. The bail plea preferred by the applicants before first forum was declined by means of order dated 16.07.2021, hence this bail application.

Since the facts of the prosecution case are already mentioned in the impugned order as well as FIR, which are annexed with Court file, therefore, there is no need to reproduce the same.

On 05.08.2021, one Muhammad Latif, advocate, filed his Vakalatnama on behalf of the complainant; however, today he is called absent without intimation.

Learned counsel for the applicants submits that the FIR is delayed for about eight days and role attributed to the applicants is of general in nature. She further submits that complainant of this case is addict of Alcohol and after having intoxicated becomes drunk thereby losses his senses and then he (the complainant) always uses to demonstrate thereby causes nuisance for the Mohalla people, therefore, was restrained by the applicants not to raise such kind of nuisance in the Mohalla to which complainant became annoyed and got registered instant false case against them. She further submits that the offence with which applicants have been charged, does not exceed limits of

prohibitory clause of section 497 Cr.P.C. She, therefore, prays for confirmation of the bail.

On the other hand, learned Addl. P.G, Sindh appearing for the State, opposes the bail application and submits that role against accused Akbar Ali is specific one as he allegedly caused block blow to the complainant which landed on his chest; however, injury declared by the medico legal officer is under Section 337-F(vi) PPC and carries maximum punishment up to seven years.

**Heard arguments and perused record.** Admittedly, the incident is said to have taken place on 25.06.2021 whereas, report thereof was lodged on 02.07.2021 i.e. with delay of about eight days though the distance between P.S and place of occurrence is only half K.M and no plausible explanation has been furnished by the prosecution for such an inordinate delay. The delay in criminal cases has always been held by the superior Courts to be fatal for the prosecution. The role attributed to the applicants as per FIR is of general in nature; besides, after furnishing surety before this Court, accused have also surrendered/joined trial proceedings before the Court of 24<sup>th</sup> Judicial Magistrate, Karachi (South). No complaint with regard to misuse of the concession extended to the applicant(s) has been brought on record and the punishment provided by law for the sections applied in FIR is seven years only; hence, does not exceed limits of prohibitory clause of section 497 Cr.P.C.

In the circumstances and in view of dicta laid down by the Hon'ble Supreme Court of Pakistan in case of *KHALEEL AHMED SOOMRO & OTHERS Versus The STATE (PLD 2017 SC 730)*, case against applicants requires further inquiry within the meaning of sub-section 2 to section 497 Cr.P.C. Consequently, instant bail application is hereby allowed; interim bail granted earlier to applicants **Akbar Ali son of Abdul Karim, Abdul Karim son of Akbar Ali and Muhammad Hassan son of Muhammad Hussain** on 19.07.2021 is hereby confirmed on same terms and conditions.

Before parting with this order; however, it is clarified that the reasoning given in this order are tentative in nature and will have no effect whatsoever in any manner upon the merits of the case.

Applicants present before the Court are directed to continue their appearance before the trial Court without negligence and in case they may misuse the concession or may temper with the prosecution's evidence then the trial Court is competent to take legal action against them as well to their surety in terms of Section 514 Cr.PC. Trial Court is also hereby directed to make necessary arrangements for securing attendance of the prosecution witnesses and conclude the trial within shortest possible time under intimation to this Court through MIT-II.

Let copy of this Order be communicated to trial Court through learned Sessions Judge, concerned. Learned MIT-II to ensure compliance.

***JUDGE***

Zulfiqar/P.A