

**IN THE HIGH COURT OF SINDH CIRCUIT COURT,  
HYDERABAD**

**Criminal Bail Application No.S-1080 of 2021.**

Applicant: Zahid son of GhulamQadir @  
GullanJamali through Mr. Faiz  
Muhammad S. Chandio advocate.

Complainant: Through Mr. Ali BuxLound advocate.

The State: Through Mr. Fayaz Hussain Sabki  
Assistant Prosecutor Genera, Sindh.

**Criminal Bail Application No.S-1081 of 2021.**

Applicants: 1. Abdul Aziz son of Meenhoon Khan  
Rodnani.  
2. Ahmed son of  
KhabarRodnanithrough Mr. Faiz  
Muhammad S. Chandio advocate.

Complainant: Through Mr. Ali BuxLound advocate.

The State: Through Mr. Fayaz Hussain Sabki  
Assistant Prosecutor Genera, Sindh.

Date of Order: 03.01.2022.

**ORDER**

**ZULFIQAR ALI SANGI, J** --Through the listed criminal bail applications the applicants/accused above-named seek pre-arrest bail in Crime No.88/2021, under Sections 397, 114, 337-A(i), 337-F(i), 337-L(ii), 337-F(iii) PPC, registered at P.S. Johi, after their bail plea has been declined by the learned Additional Sessions Judge-I, Dadu vide orders dated 16.11.2021 and 18.11.2021 respectively.

2. As per allegations in the FIR that the applicants along with other co-accused intercepted the complainant party, caused injuries to them and thereafter snatched motorcycle bearing registration No.DUJ-0840 from them.

3. Learned counsel for the applicants submits that enmity between the parties has been admitted by the complainant in the FIR; that there is delay of about 27 hours in registration of FIR which has not been explained; that the offence with which the applicants are involved carries punishment upto seven years and does not fall within the prohibitory clause of Section 497 Cr.P.C.; that no recovery of alleged motorcycle has been affected from the applicants and the applicants are behind the bars without any progress in trial.

4. Learned counsel for complainant on the other hand opposes bail to the applicants on the ground that the applicants are nominated in the FIR with specific role of causing injuries and snatching motorcycle from complainant party; that all the witnesses have supported the version of complainant while recording their statements under Section 161 Cr.P.C. and the stolen motorcycle was left by applicants in an abandoned place which was recovered by the police. Lastly he prays that bail applications may be dismissed.

5. Learned APG has adopted the arguments of learned counsel for complainant and further submits that allegation of injuries has been supported by medical evidence however he submits that recovery has not been affected from possession of applicants. He also prays that present bail applications may be dismissed.

6. I have heard learned counsel for the parties as well as learned APG and perused the material available on record. Admittedly the enmity between parties is admitted in the FIR and on tentative view no one can snatch motorcycle of a person in day time who are already in relations and known to each other having some dispute. The offence for which the applicants are allegedly involved is punishable upto seven years and same do not fall within the prohibitory clause of section 497 Cr.P.C. and in such like cases grant of bail is a rule and refusal is an exception as has been held by Honorable Supreme Court in the case of **Tariq**

**Bashir V. The State (PLD 1995 SC 34), Muhammad Tanveer V. The State and another (PLD 2017 SC 733) and Shaikh Abdul Raheem versus The State and another (2021 SCMR 822).**

7. Honorable Supreme Court of Pakistan in the case of **Muhammad Imran (Crl. P. No.860-L/2021)** vide order dated 05.08.2021 has formulated the grounds for the case to fall within the exception meriting denial of bail as (a) the likelihood of the petitioner's abscondence to escape trial; (b) his tampering with the prosecution evidence or influencing the prosecution witnesses to obstruct the course of justice; or (c) his repeating the offence keeping in view his previous criminal record or the desperate manner in which he has prima facie acted in the commission of offence alleged. Further in the said order Honorable Supreme Court has held that the prosecution has to show if the case of the petitioner falls within any of these exceptions on the basis of the material on the record.

8. Learned counsel for complainant and learned APG have not been able to point out these grounds to bring the case of applicants under exceptions as stated above. Deeper appreciation of evidence is not permissible at bail stage, however on tentative assessment of material, applicants have made out their case for grant of post-arrest bail. Accordingly, both the bail applications are allowed. Applicants are ordered to be released on bail subject to their furnishing solvent surety in the sum of Rs.50,000/- each and PR bond in the like amount to the satisfaction of learned trial Court.

9. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicants on merits.

**J U D G E**