

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

Criminal Bail Application No.S-493 of 2021

Applicants : Lakha Dino Son of Imam Bux Hajano and Mushtaque Ali Son of Muhammad Juman Hajano, through Miss. Shakira Niaz Ali Umerani, Advocate.

Respondent : The State through Ms. Rameshan Assistant Prosecutor General, Sindh.

Complainant : Aachar Son of Jumoon through Mr. Farhan Ahmed Bozdar, Advocate.

Date of hearing : **03.12.2021**  
Date of Order : **03.12.2021**

**O R D E R**

**AMJAD ALI SAHITO, J:-** Through the instant bail application, the applicantss/accused above named seek their pre-arrest bail in Crime No.52 of 2021, under sections 324, 427, 147, 148, 149, 504, 337-A(i), 337-F(i), P.P.C, registered at P.S Saeedabad, after their bail plea was declined by the learned Additional Sessions Judge, Hala, vide order dated 08.06.2021.

2. The details and particulars of the F.I.R. are already available in the bail application and F.I.R., same could be gathered from the copy of F.I.R. attached with such application, hence needs not to reproduce the same hereunder.

3. Per learned counsel during pendency of this bail application all material witnesses have been examined except I.O and Doctor yet to be examined before the learned Trial Court. She further submits that applicantss/accused are attending the Court regularly and they are not misuse the concession of bail. Lastly she prayed for confirmation of interim pre-arrest bail.

4. On the other hand, learned counsel for the complainant and learned Assistant Prosecutor General, Sindh vehemently opposed for confirmation of interim pre-arrest bail by submitting that the names of the applicantss are appearing in the F.I.R and at bail stage only tentative assessment is to be made, therefore, pray for recalling of interim pre-arrest bail.

5. I have heard learned counsel for the applicantss, the learned counsel for the complainant as well as Assistant Prosecutor General, Sindh having also gone through the record available.

6. During pendency of this bail application the case has been proceeded with before the learned Trial Court where all the material witnesses have been examined while

evidence of I.O and Doctor remain to be recorded at trial. It is principle of law that when the evidence of material witnesses have been examined before trial Court, as such, at this juncture to pass any observation may prejudice the case of either party at trial. In this regard, I am fortified with the case law reported as *NADIR alias NADIR ALI Vs. The STATE [2018 P. Cr L J NOTE 225]*, wherein this Court observed in the following manner:-

*“The evidence of almost all the prosecution witnesses has been recorded by the trial Court and the investigating officer of the case remains to be examined. It is also not controverted that after grant of interim pre-arrest bail the applicants has ever misused the concession of bail.”*

7. The case of the applicantss covers the above fact so also it is settled principle of law that in that situation only direction can be given to the learned Trial Court to conclude the case within specified period. At bail stage only tentative assessment is to be made.

8. In view of above, the bail application is allowed. Consequently, the interim pre-arrest bail granted to the applicants/accused by this Court vide Order dated 22.06.2021, is hereby confirmed on the same terms and conditions however the learned Trial Court is directed to proceed with the matter on day to day basis by not granting adjournment on flimsy grounds. The applicants/accused is too directed to attend the learned Trial Court regularly if he fails to appear the Trial Court would be at liberty to take actions against him in accordance with law.

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.

JUDGE