

IN THE HIGH COURT OF SINDH AT KARACHI
Criminal Bail Application No. 2240 of 2021

Applicants : (1) Ali Muhammad s/o. Hakeem Dad Brohi
(2) Arif s/o. Suleman (3) Noor Khan s/o. Wali Muhammad and (4) Sikandar Ali s/o. Soomar Brohi, through M/s. Mumtaz Ahmed Soomro and Qurban Ali Soomro, advocates

Complainant : Ghulam Muhammad s/o Dost Muhammad, through Mr. Sarfaraz Ali Lashari, advocate

Respondent : The State, through Ms. Rahat Ehsan, Addl. Prosecutor General, Sindh

Date of hearing : 14.02.2022
Date of order : 14.02.2022

ORDER

ZAFAR AHMED RAJPUT, J.- Applicants/accused (1) Ali Muhammad s/o. Hakeem Dad Brohi (2) Arif s/o. Suleman (3) Noor Khan s/o. Wali Muhammad and (4) Sikandar Ali s/o. Soomar Brohi Nawaz on being unsuccessful in getting relief of pre-arrest bail, vide order dated 04.03.2021, passed by the learned Additional Sessions Judge-XII, Karachi-West in Criminal Bail Application No. 661 of 2021, through instant application seek the same concession from this Court in Crime/FIR No. 41 of 2021, registered at Police Station Mauripur, Karachi under section 324/337-A(i)/34, P.P.C. They were granted interim pre-arrest bail by this Court in the instant Cr. Bail Application vide order, dated 25.11.2021, and now the same is fixed for the confirmation of interim bail or otherwise.

2. It is alleged that, on 07.02.2021 at about 09:45 a.m. at/near Nasir Hotel, Abid Jamali village, Hawks-bay road, Mauripur, Karachi, on account of previous enmity the present applicants in furtherance of their common intention caused injuries by iron rods and pipes blows to Meer Muhammad, Muhammad Iqbal and Muhammad Bilal on their head, legs, arm and other parts of body, for which, the applicants were booked in the instant F.I.R.

3. Learned counsel for the applicants mainly contends that the applicants are innocent and have falsely been implicated in the case by the complainant with mala fide intention and ulterior motives; that no specific role has been attributed to the applicants and there are general allegations against them; that there is no any private independent witness of the alleged incident; that there is no direct or indirect evidence to connect the applicants with the commission of alleged offence; hence, they are entitled for the concession of bail.

4. On the other hand, learned counsel for the complainant and learned Addl. P.G. oppose the instant application on the ground that the applicants caused iron and pipe blows to the injured, which fact is duly corroborated by the MLC; hence, they are not entitled to the extra ordinary relief of pre-arrest bail; as such, the instant Cr. Bail Application is liable to be dismissed.

5. Heard learned counsel for the parties and perused the material available on record.

6. It appears that the applicants are nominated in the F.I.R. by names for causing injuries to (1) Mir Muhammad (*the brother of the complainant*) (2) Muhammad Iqbal (3) Muhammad Bilal (*both are the cousins of the complainant*) near and at the shop of Torait Khan (*eye-witness*). Out of them injured, Mir Muhammad was hit by the car and rest of two injured received iron rods and iron pipes injuries. As per MLC, injured Muhammad Iqbal sustained displaced fracture of both right and left tibia, which has been opined by the MLO as *gyayr-jaiifa munaqqillah*, punishable under section 337(F) (vi), P.P.C. for seven years; as such, sufficient material is available with the prosecution to connect the applicants prima facie with the alleged incident. The counsel for accused has not been able to point out any special feature of the case entitling the applicants to grant of extra-ordinary concession of pre-arrest bail. Pre-requisites for such concession i.e. malice and ulterior motive, either on the part of complainant or the police are

conspicuously missing in the case. Accordingly, this application is dismissed.
The interim bail granted to accused, vide order dated 25.11.2021, stands recalled.

JUDGE

Athar Zai