

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD

Criminal Bail Application No.S-256 of 2021

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

09.07.2021.

Miyani Taj Muhammad Keerio, Advocate for applicants.
Mr. Shahid Ahmed Shaikh, Addl.P.G for State.
Mr. Arjan Das, Advocate for the complainant.

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Irshad Ali Shah J.- It is alleged that the applicants with rest of the culprits by committing trespass into house of complainant Hubji after causing him hatchet and lathi blows robbed him and his witnesses of their mobile phones, gold ornaments, and other belongings as are detailed in F.I.R, for that the present case was registered.

2. The applicants on having been refused post-arrest bail by learned Additional Sessions Judge-I, Umerkot have sought for the same from this Court by making instant application under section 497 Cr.P.C.

3. It is contended by learned counsel for the applicants that the applicants being innocent have been involved in this case falsely by the complainant in order to satisfy his dispute with them over house; the F.I.R has been lodged with delay of about five hours and they are in custody for more than three months, therefore, they are entitled to be released on bail on point of further inquiry. In

support of his contentions, he relied upon the case of *Farman Ali Vs. State [1997 SCMR 971]*.

4. Learned Assistant Prosecutor General for the State and learned counsel for the complainant have opposed to release of the applicants on bail by contending that on arrest from them have been secured crime weapons and case property. In support of their contentions, they relied upon case of *Noor Sultan and others Vs. The State and others [2021 SCMR 176]*.

5. In rebuttal to above, it is contended by learned counsel for the applicants that the motorcycle and weapons are owned by the applicants while rest of the property being available in market has been foisted upon them.

6. I have considered the above arguments and perused the record.

7. The distance between place of incident and P.S. Pithoro as per F.I.R is only one furlong; therefore, the lodgment of F.I.R with delay of about five hours could not be lost sight of. It was the night time incident; therefore, the identity of the applicants under the light of bulb is appearing to be a weak piece of evidence. There is dispute between the parties over possession of house and civil litigation between them is going on before the Court having jurisdiction. No identification parade of the recovered articles has been held. The case has finally been challaned and there is no apprehension of tampering with the evidence on the part of the

applicants. In these circumstances, a case for grant of bail to the applicants on point of further inquiry obviously is made out.

8. The case law which is relied by learned A.P.G for the State and learned counsel for the complainant is on distinguishable on facts and circumstances. In that case, the delay in lodgment of F.I.R was natural and there was no dispute between the parties over possession of house.

9. In view of above, the applicants are admitted to post arrest bail subject to their furnishing solvent surety in the sum of Rs.50,000/- each and P.R bonds in the like amount to the satisfaction of learned trial court.

10. The instant bail application is disposed of accordingly.

JUDGE

Muhammad Danish Steno.