

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Amjad Ali Sahito

Criminal Bail Application No.1140 of 2021

Applicants : (i) Yaqoob Masih S/o Payara Masih
(ii) Bilal Masih S/o Imj Vell
Through Ms. Nargis Ismail, Advocate

Complainant : Saiman S/o Iqbal
Throug Ms. Parveen Kamran Ansari,
Advocate

Respondent : The State
Through Mr. Saleem Akhtar, Addl.
Deputy Prosecutor General, Sindh
alongwith Dr. Syed Umair Ahmed,
Medico Legal Officer, JPMC

Date of hearing : 15.07.2021

Date of order : 15.07.2021

ORDER

AMJAD ALI SAHITO, J -- Through this Bail Application, applicants/accused seek post-arrest bail in Crime No.368/2021 registered under Sections 147, 149, 427, 337A(i), 324 PPC at PS Zaman Town, after their bail plea has been declined by the learned XIth-Additional Sessions Judge, Karachi East vide order dated 28.05.2021.

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

3. Learned counsel for the applicants submits that applicants/accused are innocent and have falsely been implicated in this case; that applicant Yaqoob Masih is about 65 years old and he is ill person, whereas, applicant/accused Bilal Masih is also innocent and no specific role has been assigned against the applicants/accused; that they are in jail and are no more required for further investigation. She lastly prays for grant of post-arrest bail to the applicants/accused.

4. On the other hand, learned counsel for the complainant as well as learned Addl. PG have opposed for grant of post-arrest bail.

5. I have heard the learned counsel for the parties and perused the material available on record. It reveals that near about 10 persons allegedly entered into the house of the complainant and started beating them with dandas, resultantly, one injured Iqbal received three injuries; one was declared 337L(i) PPC (Punishment for other hurt) which is punishable for 07 years and would not fall within prohibitory clause of Section 497(1) Cr.P.C. Injuries attributed to more than one accused. Question as to who had caused fatal injury to be determined. No specific role against the applicants/accused has been assigned in the FIR. Further, during the said incident, applicant/accused Yaqoob Masih aged about 62 years had also received injuries which shows that during the occurrence, both the parties had received injuries but the complainant did not mention injuries in the FIR. It is yet to be determined at the time of trial who was aggressor and who was aggressed upon, when evidence will be recorded. At bail stage, only a tentative assessment is to be made and deeper appreciation is not permissible.

6. Learned counsel for the applicants/accused has succeeded to make out a case for grant of post-arrest bail to the applicants/accused in terms of subsection (2) of Section 497 Cr.P.C. Consequently, the instant bail application is **allowed**. Applicants/accused above named are enlarged on bail subject to furnishing solvent surety in the sum of Rs.50,000/- (rupees fifty thousand only) **each** and PR bond to the satisfaction of the learned trial Court.

7. 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/accused on merits.

JUDGE

Kamran