

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

Cr. B.A. No.S-70 of 2022

1. For order on office objection.
2. For hearing.

08.04.2022

Mr. Abdul Aziz Memon, Advocate for the applicants.

Applicants are present on interim pre-arrest bail.

Ms. Rameshan Oad, A.P.G.

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ORDER

SALAHUDDIN PANHWAR, J.-Through instant bail application, the applicants seek pre-arrest bail in crime No.04 of 2022, registered at Police Station Dano Dandhal, under sections 324, 147, 148, 149, 114, 506, 337-A(i), 337-F(i), 504 PPC. Earlier the plea raised by the applicants for grant of pre-arrest bail was declined by order dated 13.01.2022, passed by learned Additional Sessions Judge-I, Tharparkar at Mithi and now they approach this Court for same relief.

2. Precisely, on 23.11.2021, when complainant party was busy in thrashing work of "Bajra" crop, in their own agricultural land. It was about 4.00 p.m, when applicants/accused duly armed with hatchets and lathis by making unlawful assembly, entered into their agricultural land/"Khara"; applicants/accused Akber Ali and Samano instigated others not to spare them. Then on such instigation, applicant Sharif caused hatchet injury on the head of Sulleman with intention to kill him, applicant Subhan caused hatchet blow on both arms of Jan Muhammad with intention to kill him, while applicant Darya Khan caused hatchet blows on head of Sharif thereby caused him injuries. Applicant Hanif also caused hatchet blows upon injured Fateh and caused injuries on his ear, while applicant Qadir Bux caused hatchet blow injuries on his both arms; applicant Abdul Mutilab caused hatchet blows on head of Wagho as well as back side of his body. Thereafter, all applicants/accused gave

jointly beatings with hatchet, lathies, kicks and fists blows and went away while abusing and extending threats.

3. Learned counsel for the applicants contends that that applicants are innocent and have falsely been implicated in this case due to enmity; that applicants party is complainant in crime No.50/2021 registered at PS Danodhandhal with regard to murder of their close relative. He also contends that there are counter cases in between both parties and it is yet to be determined that which party is aggressor and which party is aggressed upon at the time of trial; that there is delay of one month and 13 days in lodging of FIR, which has not been explained plausibly. Lastly, he prayed for confirmation of interim pre-arrest bail as the applicants have not misused such concession.

4. Learned A.P.G opposed to the confirmation of interim pre-arrest bail earlier granted to the applicants and prayed for dismissal of bail application.

5. Heard learned counsel for the applicants, learned A.P.G. appearing for the State and perused the record. Applicants, who are 19 in number, are alleged to have caused injuries to 07 persons. Admittedly, out of them 11 accused/applicants have been placed in column-II by I.O of the case and they were discharged by the concerned Judicial Magistrate; that the FIR is delayed for about 01 month and 13 days; alleged offence/injuries are not falling within prohibitory clause. Besides, complainant party allegedly murdered one Habibullah, a close relative of the applicants and in that regard FIR bearing Crime No.50/2021, under sections 302 PPC and others was registered at PS Danodhandhal, which is pending adjudication before the trial Court. Perusal of record reveals that date, time and place of occurrence in both FIRs are same, hence it is yet to be examined at trial as to which party was aggressor and which was aggressed upon. Hence this is a case of further inquiry as envisaged under sub-section (2) to section 497 Cr.P.C, and malafide and false implication cannot be ruled out patently or latently.

6. Accordingly, interim pre-arrest bail earlier granted to the applicants vide order dated 20.01.2022 is hereby confirmed on same terms and conditions.

The bail application stands disposed of.

JUDGE

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