

**IN THE HIGH COURT OF SINDH, BENCH AT  
SUKKUR.**

**Crl. Bail Application No. S- 433/2022.**

Date of hearing	Order with signature of Judge
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For Hearing of Bail Application.

1. For orders on office objection at Flag 'A'.
2. For hearing of bail application.

**ORDER.**  
**21.11.2022.**

Mr. Achar Khan Gabol, Advocate for Applicants.

Mr. Mumtaz Ali Naich, Advocate for complainant.

Syed Sardar Ali Shah, Additional Prosecutor  
General.

**NAIMATULLAH PHULPOTO J.**, Through this order, I intend to dispose of pre-arrest bail application filed on behalf of applicants/accused Muhammad Mureed and Muneer Ahmed in crime No. 152/2022, for offences under sections 302, 114, 504, 337-H(ii), 148, 149 PPC registered at police Station Mirpur Mathelo District Ghotki. Prior to this, applicants applied for pre-arrest bail before learned 3<sup>rd</sup> Additional Sessions Judge, Mirpur Mathelo, however, prayer for pre-arrest bail was dismissed vide order dated 09.09.2022, hence, they have filed instant pre-arrest bail application.

2. Brief facts of the prosecution case as disclosed in the FIR are that present incident occurred on 31.07.2022 at 8.30 p.m near the house of complainant. It is alleged that complainant had shifted from Sadiqabad and settled in village

Muhammad Azeem Boohar. It is alleged that accused Ali Bux alias Aloo Kosh was pressurizing him to return back else, he would be murdered. It is further alleged that on 31.07.2022 complainant along with his son Nisar Ahmed (now deceased), P.Ws Dildar Ali and Noor Hassan were present in the house, electric bulbs were on, at about 8.30 p.m complainant heard noise outside of the house, he came out along with his son and saw accused Ali Bakhsh alias Aloo son of Khan Muhammad Kosh empty handed, Jan Muhammad son of Ali Bux alias Aloo armed with pistol, Mureed, Muneer both sons of Bibal Kosh (present applicants) armed with pistols, Allahdin son of Manthar and Imdad son of Khamiso armed with Kalashnikovs were present there. It is alleged that accused Ali Bux alias Aloo abused to complainant and asked him as to why he has not shifted back to Sadiqabad. According to prosecution case at his instigation, accused Jan Muhammad fired from his pistol upon Nisar Ahmed which hit him and he fell down. Applicants /accused Muhammad Mureed and Muneer Ahmed fired in air and created harassment. Thereafter accused went away. It is stated that son of complainant namely Nisar Ahmed succumbed to injuries. FIR of the incident was lodged against the accused at Police Station Mirpur Mathelo under sections 302, 504, 337-H(ii), 148,149 PPC.

3. Mr. Achar Khan Gabol, learned advocate for applicants contended that applicants have been falsely involved in this case and role ascribed to them is of firing in air. It is further submitted that in the view of role attributed to applicants case against them falls within ambit of further enquiry, therefore, applicants are entitled for confirmation of bail. In support of his contentions, he has placed reliance upon the cases reported as 2014 SCMR 27 (Nisar Ahmed v. The State and others), 2014 SCMR 1347 (Muhammad Irfan v.

The State and others) and 2020 MLD 786 (Anwar alias Saeed Khan Bugti v. The State).

4. On the other hand, learned Additional Prosecutor General recorded no objection, however, learned advocate for complainant opposed the grant of pre-arrest bail to the applicants on the ground that applicants have been specifically nominated in the FIR with a role of firing in air. It is submitted that applicants do not deserve the concession of pre-arrest bail in this case.

5. I have heard learned counsel for the parties and perused the record. As per the contents of crime report, allegation levelled against the applicants was that they were armed with pistols and fired in air to create harassment. However, in the FIR it is specifically mentioned that accused Jan Muhammad fired upon deceased Nisar Ahmed. Keeping in view the role ascribed to the applicants guilt or otherwise of the applicants/vicarious liability can only be determined by the trial Court after recording the evidence. As regards to the ingredients for grant of pre-arrest bail are concerned, in the case of Javed Iqbal v. The State through Prosecutor General of Punjab and another (2022 SCMR 1424) it is held that while granting extraordinary relief of pre-arrest bail, merits of the case can be touched upon.

6. Keeping in view of the facts and circumstances, prima facie there are no reasonable grounds for believing that applicants Muhammad Mureed and Muneer Ahmed have committed the alleged offences but there are sufficient grounds for further inquiry into their guilt. Interim pre-arrest bail earlier granted to the applicants / accused Muhammad Mureed and Muneer Ahmed vide order dated 12.09.2022 is hereby confirmed on same terms and conditions.

7. Needless to mention here that observations made hereinabove are tentative in nature and trial Court shall not be influenced while deciding the case on merits.

8. The aforesaid bail application stands disposed of in the above terms.

**J U D G E**

**Irfan/P.A**