

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Criminal Bail Application No.S-1129 of 2021

<u>DATE</u>	<u>ORDER WITH SIGNATURE OF JUDGE</u>
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05.09.2022

Mr. Muhammad Zakarya advocate holding brief on behalf of Mr. Bharat Kumar Suthar, advocate for applicants, along with applicants on ad-interim pre-arrest bail.

Mr. Muhammad Hussain Khan advocate for complainant along with complainant.

Mr. Imran Ali Abbasi, Assistant Prosecutor General.

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MUHAMMAD IQBAL KALHORO, J.- Allegedly on 17.11.2021 applicants along with 04 unknown accused waylaid son of the complainant on Kunri-Umerkot Link Road and caused him sharp side hatchet injuries and robbed Rs.50,000/- from him which he had obtained from one NGO named Thardeep as a loan. The injury opined by Medico Legal Officer is 337-A(ii) PPC, non-bailable and punishable for 5 years. However in FIR and Challan sections 394 & 397 PPC have also been included. The Challan further shows that the applicants did not join the investigation and simply after obtaining ad-interim pre-arrest bail had sent a copy thereof to police station as intimation.

2. Since the applicants were granted ad-interim pre-arrest bail on 10.12.2021 by this court, their counsel on one excuse or the other has either remained absent or failed to argue the matter. Today also the applicants' counsel is not present and Mr. Muhammad Zakarya advocate is holding brief on his behalf but is not ready to argue the case.

3. Therefore, I have heard applicants in person and complainant party represented by their counsel so also learned Assistant Prosecutor General who also has submitted criminal record of the applicants showing them involved in the cases of like nature and a copy of judgment in Case No.72/2022 passed by Civil Judge & Judicial Magistrate-I, Umerkot, in which they have been convicted.

4. Applicants submit that they are innocent and on account of enmity over "Goucher Land" have been implicated in this case. As

against this, there is prima facie sufficient evidence in the shape of Medico Legal Certificate and the statements of witnesses u/s 161 CrPC supporting the prosecution story. No case for extraordinary concession of pre-arrest bail has been made out. Applicants appear to be habitual criminals involved in so many cases of like nature. The concession of pre-arrest bail which excludes possibility of arrest otherwise required in law in non-bailable offences can only be extended to an accused who on the face of the record appears to be innocent and falsely implicated in the case for a motive base an ulterior. In this case, there is sufficient medical and oral evidence against applicants. Moreso even after getting ad-interim pre-arrest bail, applicants did not join the investigation and thus far they by their conduct have defeated the course of law. In view thereof, the applicants do not deserve to be granted pre-arrest bail.

5. Accordingly, this application is dismissed and ad-interim pre-arrest bail earlier granted to the applicants vide order dated 10.12.2021 is hereby recalled.

6. The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE