

IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-253 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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<u>15.05.2023</u>	For orders on office objection. For hearing of main case.
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Mr. Heman Das S.Sanghani, advocate for the applicants along with applicants, who are present on interim pre-arrest bail.

Mr. Bilawal Bajeer, advocate for complainant along with complainant.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

Amjad Ali Sahito, J:- Through instant bail application, the applicants/accused namely, Arab @ Aree, Muhammad Juman, Latif and Hanif seek pre-arrest bail in Crime No.43/2023, registered at Police Station Badin for the offence under sections 324, 455, 337-A (i), 337-F (i), 504, 114, 147, 148, 149 PPC. Earlier the bail plea of the applicants/accused was declined by the learned 2nd Additional Sessions Judge, Badin vide order dated 02.03.2023.

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

3. Learned counsel for the applicants has mainly argued that the applicants/accused are innocent and have falsely been implicated in this case; that prior to this, the applicants/accused lodged FIR bearing crime No.107/2023 at PS Badin against the complainant party, in which they have admitted to bail by the learned trial Court. He further contented that though the applicants/accused have been stated to be armed with hatchet but they did not use sharp side of the weapon, as such, section 324 PPC is not applicable in the instant case, which is yet to be determined at the trial, when evidence of parties will be recorded before the learned trial Court; otherwise, the remaining sections in the instant case do not fall within the ambit of prohibitory clause of section 497 (1) Cr.P.C. Learned counsel further added that also it is yet to be determined after recording the evidence of the parties before the learned trial Court as to which party is aggressor and which party is aggressed upon. He further contented that the applicants/accused are attending the learned trial Court regularly; they are no more required for further investigation as challan

has been submitted. Learned counsel for the applicants/accused has invited the attention of the court at page-57 of the court file and contended that in fact, applicant/accused Latif contracted married with one Mst. Sanam the daughter of Amanat Ali, which annoyed the complainant party and resulted instant case. He pleaded *mala fide* on the part of the complainant and prayed for confirmation of interim pre-arrest bail of the applicants/accused.

4. On the other hand, learned counsel for the complainant and learned A.P.G. Sindh have vehemently opposed the bail application; however, they contended that the applicants/accused have been nominated in the FIR with specific role that they from their respective weapons caused injuries to the injured person, as such, they are not entitled for concession of bail. Learned counsel for the complainant admitted that in the counter case, the complainant is on bail.

5. Heard and perused the record.

6. Admittedly, there is disputed between the parties over matrimonial affairs on account of marriage of one Mst. Sanam with the one of the applicant/accused namely Latif, which has annoyed to the complainant, which resulted the present case. It is also an admitted fact that accused party also lodged FIR against the complainant party and in the counter case the accused from the side of complainant of this case are on bail. So far section 324 PPC is concerned, it is yet to be determined at the trial, when the evidence of parties will be recorded before the learned trial Court; otherwise, the rest of sections in the instant case does not fall within the ambit of prohibitory clause of section 497 (1) Cr.P.C. Further, in order to determine as to whether which party is aggressor and which party is aggressed upon will be determined after recording evidence of the parties before the learned trial Court. Investigation is complete as the case has been challaned. Applicants/accused are no more required for further investigation. Learned counsel has also pleaded *mala fide* on the part of complainant party.

7. In view of the above facts and circumstances, learned counsel for the applicants/accused has made out the case for further inquiry as envisaged in subsection 2 of section 497 Cr.P.C. Consequently, instant criminal bail application is allowed and interim pre-arrest bail already granted to the applicants/accused by this Court vide order dated 27.03.2023 is hereby confirmed on the same terms and conditions as laid down therein.

8. 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 on merits.

JUDGE