

# IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-420 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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24.05.2023 For hearing of main case.

Mr. Farhad Ali Abro, advocate for the applicants along with applicants, who are present on interim pre-arrest bail.

Mr. Irfan Ahmed Qureshi, 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, Nisar Ahmed and Abdul Sattar seek pre-arrest bail in Crime No.81/2023, registered at Police Station Pnyar, Hyderabad for the offence under sections 324, 337-A (i), 337-F (i), 506/2, 34 PPC. Earlier the bail plea of the applicants/accused was declined by the learned VI<sup>th</sup> Additional Sessions Judge, Hyderabad vide order dated 28.04.2023.

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 the role assigned to the applicants/accused is in general nature otherwise, the applicant No.2 Abdul Sattar by profession is a Professor / Arabic Teacher, posted at Training College; that in fact the complainant by profession is an Advocate and in order to occupy the plot being S.No.44/(04-35) of Deh Gujjo Taluka City Hyderabad, he has lodged this false FIR by obtaining a false medical certificate; that from the act of complainant to involve the applicants there appears *mala fide* on the part of complainant. He further contented that though the applicants/accused have been stated to be armed with pistols but they did not attempt to commit murder of the complainant, 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 the applicants/accused are attending the learned trial Court,

they are no more required for further investigation. He, therefore, prayed for confirmation of interim pre-arrest bail of the applicants/accused.

4. On the other hand, learned counsel for the complainant has vehemently opposed the grant of bail to the applicants/accused and contended that the Advocate does not mean that the license is given to the applicants/accused to kill or injured him; that if the applicants/accused have any grievance upon the plot, they are not supported to take the law in hands and right course was to approach civil court for redressal of grievance, if any. He further contended that for grant of pre-arrest bail, there must of *mala fide* on the part of complainant but the applicants have failed to disclose any *mala fide* on the part of complainant in the bail application before learned trial Court as well as before this Court. He further contended that the applicants have miserably beaten the complainant and injured him and injuries received by the complainant are declared by the medico-legal officer falling under section 337-F (i) and 337-F (v) PPC. He, therefore, prayed for dismissal of bail plea of the applicants/accused.

5. Learned A.P.G. Sindh has vehemently opposed the bail application; however, she admitted that the role assigned to the applicants/accused is of general in nature.

6. Heard and perused the record.

7. From the perusal of record, it reflects that two accused namely Manzoor Jatoi and Rashid Jatoi have been admitted to bail by the learned VI<sup>th</sup> Additional Sessions Judge, Hyderabad in Criminal Bail Application No. 1009 of 2023. The role assigned to the applicants/accused is of general nature and identical to that of co-accused, who have been admitted to bail by the learned trial Court. As far as the plea taken by learned counsel that there is no *mala fide* on the part of complainant, suffice to say that the applicant Abdul Sattar by profession is a Professor / Arabic Teacher in BPS-19 claiming to be owner of the plot and in his support, learned counsel has also submitted a report of Mukhtiarkar, Taluka City Hyderabad. The complainant is an Advocate, from the perusal of report of Mukhtiarkar, which *prima facie* shows that the applicant Abdul Sattar is purchaser of said survey number; it appears that in order to create pressure by misuse of profession, instant FIR has been lodged. 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. Investigation is complete as the case has been challaned. Applicants/accused are no more required for further investigation and they are attending the learned trial Court. Learned counsel has also pleaded *mala fide* on the part of complainant party.

**8.** 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 03.05.2023 is hereby confirmed on the same terms and conditions as laid down therein.

**9.** 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**

\*Abdullah Channa/PS\*