

IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Criminal Bail Application No.S-506 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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25.05.2023
For orders on office objection.
For hearing of main case.

Syed Tarique Ahmed Shah, advocate for applicants along with applicants, who are present on interim pre-arrest bail.

Mr. Mansoor Ali Jarwar, advocate files power on behalf of complainant, taken on record.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

Amjad Ali Sahito, J:- Through instant bail application, the applicants/accused namely, namely Babar Ali, Ali Hassan, Dildar Ali, Ali Ahmed, Waqar Ali, Meer Muhammad and Sajid seek pre-arrest bail in Crime No.50/2023 registered at PS Bukera Sharif for the offences under sections 302, 147, 148,149 PPC. Earlier the bail plea of the applicants/accused was declined by the learned 2nd Additional Sessions Judge, Tando Allahyar vide order dated 15.05.2023.

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 in fact after the incident, the deceased was shifted to Liaquat University Hospital Hyderabad / Jamshoro due to road accident on 23.04.2023 at 11.33 p.m. He further contended that as per medical certificate there is only one injury on temporal region of the head otherwise, the role is assigned in the FIR that in the presence of witnesses Sajjad and Javed all the accused armed with rifles, hatchets and lathies given blows to deceased Amir Raza Katyar and resultantly he has received serious injuries and thereafter he was shifted to Civil Hospital, Hyderabad for treatment. He further contended that during investigation all accused found innocent. According to him this is a fit case for further inquiry and prayed for confirmation of interim pre-arrest bail to the applicants/accused.

4. On the other hand, learned counsel for the complainant has opposed the grant of bail and contended that the injury is on back side of the

head, which was declared by the doctor at temporal region and blood was oozing from the nose and left ear otherwise no injury was found on other parts of the body.

5. Learned A.P.G. Sindh has supported the arguments advanced by the learned counsel for the complainant.

6. Heard and perused.

7. Perusal of record *prima facie* it reflects that on the day of incident viz. 23.04.2023 at about 11.33 p.m., the injured was shifted to Liaquat University Hospital Hyderabad / Jamshoro and the doctor after examination of external injuries has written that this is a Road Traffic Accident (RTA) and thereafter the complainant has converted the road accident into the homicidal incident. From the perusal of FIR, it reflects that in the presence of one Sajjad and Javed who were standing on the link road, one Shan hit his motorcycle to one Amjad Katiyar and thereafter the other accused reached there who had allegedly given rifle, hatchet and lathi blows to the deceased but except one injury, no other injuries were found on the body of the deceased, as such, it is not believable when several persons caused injuries to the deceased, how, only one injury was found on examination by the Medical Officer. Learned counsel has pleaded *mala fide* on the part of complainant and contended that due to enmity all the accused have been implicated falsely in this case otherwise, all are innocent.

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 bail application is allowed, as such, interim pre-arrest bail already granted to the applicants/accused is hereby confirmed on the same terms and conditions laid down in the earlier order dated 19.05.2023.

9. It is made clear that if the applicants after getting bail will not appear before the trial Court and the trial Court is satisfied that the applicants become absconders and fugitive to law, then the trial Court is fully competent to take every action against the applicants/accused and their surety[-ies] including cancellation of bail without referring to this Court.

JUDGE