

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-121 of 2023

Applicants: Aijaz son of Ali Murad Jaghero, Shafi Muhammad son of Urs Jaghero, Allah Warayo son of Muhammad Umar, Madad Ali son of Ali Murad Jaghero and Qadir alias Qadir Bux son of Umar Jaghero, through Syed Muhammad Waseem Shah, Advocate.

Respondent: The State through Ms. Rameshan, Assistant Prosecutor General, Sindh.

Date of hearing: **20.03.2023**

Date of Order: **20.03.2023**

O R D E R

AMJAD ALI SAHITO, J:- Through the instant criminal bail application, the applicants above named seek their post-arrest bail in Crime No.64 of 2022, under sections 324, 337-F(v), 337-L(ii), 341, 504, 34 P.P.C, registered at P.S Khoski, after their bail plea was declined by the learned 1st Additional Sessions Judge, Badin vide order dated 12.01.2023.

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

3. Learned counsel for the applicants submits that co-accused Jakhro has already been admitted to post-arrest bail by this Court vide order dated 03.02.2023, hence rule of consistency is applicable to the case of present applicants; that FIR has been lodged with delay of about 16 days without any plausible explanation; that there is enmity between the parties, as such, false implication of the applicants cannot be ruled out. He lastly prayed for grant of bail.

4. Learned Assistant Prosecutor General, Sindh though opposed the grant of bail but she could not controvert the fact the injuries sustained by complainant do not fall within the prohibitory clause of section 497 Cr.P.C.

5. I have heard learned counsel for the parties and gone through the material available on the record.

6. Admittedly there is enmity between the parties which is a double edged sword that cut both ways. The complainant failed to disclose the reasons for 16 days' delay in lodgment of FIR which smells consultation and deliberation. Co-accused Jakhro has already been admitted to post-arrest bail by this Court in present crime vide order dated 03.02.2023, therefore, rule of consistency is applicable to the case of applicants. The medico-legal officer has declared two injuries one as ghayr-jaifah-hashimah punishable under section 337-F(v) P.P.C carries a punishment upto five years while the other under section 337-L(ii) P.P.C punishable upto two

years hence the same do not fall within the limb of section 497 Cr.P.C. Further, the case has been challaned and the custody of applicants are no more required so no purpose would be served to keep them in jail for indefinite period. Under such circumstances, the learned counsel for the applicants/accused has made out a case for grant of post-arrest bail in view of subsection (2) of section 497 Cr.P.C, resultantly the instant bail application is allowed and the applicants / accused are admitted to post-arrest bail subject to their furnishing solvent surety in the sum of Rs.50,000/- each and P.R. bonds in the like amount to the satisfaction of learned Trial Court.

7. Needless to mention here that the observations made hereinabove are tentative in nature would not influence the learned Trial Court while deciding the case of either party at trial.

*Muhammad Danish**

JUDGE