

ORDER SHEET
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
 Crl. Bail Application No.S-414 of 2022
 (*Sardar Khan Korai Vs. The State*)

For hearing of Bail Application.

15-11-2023.

Mr. Shabbir Ali Bozdar, advocate for the applicant.

M/s Mehfooz Ahmed Awan and Farhan Ali Shaikh, advocates for the complainant.

Mr. Shafi Muhammad Mahar, Deputy P.G for the State.

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Irshad Ali Shah, J; It is alleged that the applicant with rest of the culprits after having formed an unlawful assembly in prosecution of its common object, caused iron rod and butt blows to Qurban Ali and Imtiaz Ali, on receipt of such injuries Qurban Ali died, for that the present case was registered.

2. On having been refused bail by learned Ist Additional Sessions Judge (MCTC), Ghotki, the applicant has sought for the same from this Court by way of instant application u/s 498-A Cr.P.C.

3. It is contended by learned counsel for the applicant that the applicant being innocent has been involved in this case by the complainant party in order to satisfy its dispute with him over matrimonial affairs; the FIR of the incident has been lodged with delay of about two days and on investigation the applicant was found to be innocent and let of by the police; therefore, the applicant is entitled to be admitted to pre-arrest bail on point of further inquiry and malafide. In support of his contention he relied upon case of *Sikandar Hayat Vs. The State and another* (2022 SCMR 198).

4. Learned Deputy P.G for the State and learned counsel for the complainant have opposed to grant of pre-arrest bail to the applicant by

contending that he is named in FIR with role of causing iron rod blow to the deceased.

5. Heard arguments and perused the record.

5. The FIR of the incident has been lodged with delay of about two days; such delay having not been explained plausibly could not be overlooked; the role attributed to the applicant is general in nature; on investigation he has been let off by the police by finding him to be innocent; co-accused Mir Muhammad has already been admitted to post arrest bail by learned trial Court; the case has finally been challaned and there is no allegation of misusing the concession of interim pre-arrest bail on the part of the applicant. In these circumstances a case for grant of pre-arrest bail in favour of the applicant on point of further inquiry and malafide obviously is made out.

6. In case of *Meeran Bux vs. The State and others* (PLD 1989 S.C 347), it has been held by Hon'ble Apex Court that;

".....Since the appellant remained on bail for more than one year before the bail was cancelled by the High Court without abusing the concession of bail in any manner and the reason given by the learned Session Judge for granting pre-arrest bail that the injury was on non-vital part of the body of the deceased i.e. thigh and was simple, was not without foundation, we would, therefore, in the circumstances, set aside the impugned order of the High Court and restore the order of the Sessions Judge granting the pre-arrest bail."

7. In view of above, the interim pre-arrest bail already granted to the applicant is confirmed on the same terms and conditions.

8. The instant bail application is disposed of accordingly.

Judge

