

**HIGH COURT OF SINDH, CIRCUIT COURT
AT HYDERABAD**

Cr. Bail Application No.S-295 of 2023
[Muhammad Buxs & another versus The State]

Cr. Bail Application No.S-327 of 2023
[Punhal Khaskheli & Others versus The State]

Cr. Bail Application No.S-403 of 2023
[Abdul Ghani versus The State]

Cr. Bail Application No.S-712 of 2023
[Ilyas @ Muhammad Ilyas versus The State]

Date	Order with signature of Judge
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Mian Taj Muhammad Keerio, advocate for applicants in
Cr. B.As No.327 & 403 of 2023 and for complainant in
counter cases

Mr. Sajid Ali Soomro, advocate for applicants in Cr.
B.As No.S-295 & 712 of 2023 and for Complainant in
counter cases

Ms. Safa Hisbani Assistant P.G Sindh

Date of hearing: 12.01.2024

Date of decision: 19.01.2024

KAUSAR SULTANA HUSSAIN J.- Applicants (i) Muhammad Bux, (ii) Mehram and (iii) Ilyas @ Muhammad Ilyas seek pre-arrest bail in Crime No.28 of 2023 registered at P.S Perumal under Sections 324, 337-H(ii), 337-A(i), 337-A(vi) and 34 PPC, whereas (i) applicants Punhal Khaskheli, (ii) Asif, (iii) Mumtaz Ali and (iv) Abdul Ghani seek pre-arrest bail in Crime No.30 of 2023 registered at same police station under Sections 324, 337-A(i), 337-F(i), 337-H(ii) 504 and 34 PPC. All the applicants had applied for pre-arrest bail before the learned trial Court, but their pleas were turned down vide Orders dated 30.03.2023, 08.04.2023 and 26.04.2023 respectively. Since all the captioned bail applications arise from counter cases, registered by the parties against each other and based on almost similar facts, as such are being decided by this single Order.

2. Mumtaz Ali complainant of Crime No.28 of 2023 has alleged in his FIR that there are trees of devi near their land at Khorwah and on 12.03.2023 he alongwith his brother Asif were cutting firewood from the said trees and their father Abdul Ghani was also present there when at about 1100 hours Ilyas S/o

Sukhio Khaskheli having pistol, Ghulam Ali S/o Pharwo Khaskheli having gun, Muhammad Bux S/o Sukhio khaskheli having hatchet and Mohram S/o Pharwo Khaskheli having lathi came there and restrained them from cutting firewood and meanwhile Ilyas and Ghulam Ali with intention to commit murder made straight fires and Ilyas reached near to them and made straight fire at his father Abdul Ghani with intention to commit his murder, which hit him on face, whereas Muhammad Bux gave butt blow of hatchet at his head while Moharam caused lathi blow at his arm, then accused went away by making aerial firing, hence above FIR was lodged.

3. Whereas Ghulam Muhammad complainant of FIR No.30 of 2023, lodged on 29.03.2023, has alleged that there are trees of devi at his and his brothers' land in Deh Bharam Bari and on 12.03.2023 he alongwith his brothers Ghulam Ali and Mohram were present at their above land when Mumtaz Khaskheli (**complainant in counter FIR No.28 of 2023**) and Asif Ali both sons of Abdul Ghani came there with hatchets and started cutting firewood from their trees, hence they restrained them from cutting firewood from their side, then they went away with firewood, thereafter he went to P.S Perumal and his brother Mohram called him and informed that at about 10:00 hours Abdul Ghani Khaskheli, Punhal Khaskheli having pistols, Asif Ali having repeater, Mumtaz Ali Khaskheli and two unknown persons having hatchets came there and started cutting firewood and on their restraining, Abdul Ghani with intention to commit murder made straight fire at brother Ghulam Ali, who fell down then accused went away by making aerial firing, as such aforesaid FIR was lodged.

4. I have heard the learned counsel for the parties as well as learned Assistant P.G and have also gone through the material available on record. Both the parties pleaded innocence and false implication, whereas learned Assistant P.G has opposed both the bail applications on the ground that both the parties have received serious injuries. Mr. Sajid Ali Soomro advocate in support of his arguments has relied upon some case laws viz: (i) 2022 MLD 1088 Sindh and (ii) 2020 Cr.L.J Note 166 Larkana Bench as well as Order dated 08.06.2023 whereby trial Court has granted the bail to co-accused in Crime No.28 of 2023.

5. A careful perusal of both the FIRs reveals that applicants (i) Muhammad Bux, (ii) Mehram [**in Crime No.28 of 2023 - Criminal Bail Application No.295 of 2023**], (iii) Punhal Khaskheli, (iv) Asif and (v) Mumtaz Ali [**in Crime No.30 of 2023 – Cr. Bail Application No.S-327 of 2023**] have neither been assigned any specific role nor attributed any injury and only general allegation has been assigned to them that they have allegedly shared their common intention at the time of alleged offence, which is yet to be proved after recording of evidence.

6. As far as allegations laved against accused Abdul Ghani **[[in Crime No.30 of 2023 – Cr. Bail Application No.S-403 of 2023]** and Ilyas @ Muhammad Ilyas **[in Crime No.28 of 2023 - Criminal Bail Application No.712 of 2023]** are concerned, it appears that applicant/accused Abdul Ghani has been shown seriously injured in counter case, which is duly supported by the medical certificate, therefore, his case specifically requires further inquiry at this stage, as it is yet to be proved at trial that how a seriously injured person has allegedly caused injuries to another person. Whereas though the accused Ilyas @ Muhammad Ilyas and co-accused Ghulam Ali have been alleged role of straight firing in Crime No.28 of 2023, however, the learned trial Court vide Order dated 08.06.2023 has admitted the co-accused Ghulam Ali on bail, hence rule of consistency is applicable in the case of accused Ilyas @ Muhammad Ilyas.

7. Further since these are the counter cases, as such it is yet to be determined by the learned trial Court that which party was aggressor and which was aggressed upon. The investigation has been completed and challans have been submitted before the trial Court hence accused are no more required for further inquiry. It also appears that all the applicants are regularly attending the trial Court and there is no record to show that they have misused the concession of interim pre-arrest bail.

8. In view of the above discussion all the applicants have successfully made out their cases for grant of concession of pre-arrest bail. Accordingly interim pre-arrest bail granted to all the applicants/accused vide Orders dated 03.04.2023, 11.04.2023, 28.04.2023 and 12.07.2023 are hereby confirmed on the same terms and conditions.

9. Needless to mention here that observations made hereinabove are tentative in nature and will not prejudice the case of either party at trial. Learned trial Court however, is directed to expedite the trial and conclude it within shortest possible time in accordance with law.

10. Captioned bail applications stand disposed of accordingly.

JUDGE

Sajjad Ali Jessar