

ORDER SHEET
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Crl. Bail Application No. S- 717 of 2023
(*Nawab Ali & others Vs. The State*)

1. For Orders on office objection.
2. For hearing of Bail Application

22-01-2024.

Mr. Shabbir Ali Bozdar, advocate a/w the applicants.
Mr. Muhammad Pervaiz Rajput, advocate a/w complainant.
Mr. Shafi Muhammad Mahar, DPG PG for the State.

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IRSHAD ALI SHAH - I:- It is alleged that the applicants with rest of the culprits after having formed an unlawful assembly and in prosecution of its common object, caused back side of hatchet blows to complainant Bashir Ahmed, PWs Siki Ladho, Mst. Siki Ladhi, Mst. Resham and Mst. Samina, for that the present case was registered.

2. The applicants on having been refused pre-arrest bail by learned Ist Additional Sessions Judge/ (MCTC-I), Sukkur, have sought for the same from this Court by way of instant application under section 498-A Cr.PC.

3. It is contended by learned counsel for the applicants that the applicants being innocent have been involved in this case falsely by the complainant party in order to satisfy its dispute with them over plot; the FIR of the incident has been lodged with delay of about one month and there is counter version of the incident, therefore, the applicants are entitled to be admitted to pre-arrest bail, as they are apprehending their unjustified arrest at the hands of police. In support of his contention he relied upon case of *Muhammad Umar Waqas Barkat Ali Vs. The State and another* (2023 SCMR 330).

4. Learned Deputy Prosecutor General for the State and learned counsel for the complainant have opposed to grant of pre-arrest bail to the applicants by contending that they are vicariously liable for the commission of the incident.

5. Heard arguments and perused the record.

6. The FIR of the incident has been lodged with delay of about one month; such delay having not been explained plausibly could not be overlooked; it is reflecting consultation and deliberation. The injuries sustained by the injured are not falling within prohibitory clause. There is counter version of the incident. There is dispute between the parties over plot. The case has finally been challaned. The applicants have joined the trial and there is no likelihood of their absconsion or tempering with the evidence. In these circumstances, a case for grant of pre-arrest bail in favour of the applicants on point of malafide obviously is made out.

7. In case of *Khalil Ahmed Soomro and others Vs. The State (PLD 2017 SC-730)*, the Apex Court has held that;

"5. In this case, it appears that net has been thrown wider and the injuries sustained by the victims except one or two, have been exaggerated and efforts have been made to show that the offences are falling within those provisions of law, punishable with five years or seven years' imprisonment. All those aspects if are combindly taken, may constitute element of mala fide".

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

9. The instant bail application is disposed of accordingly.

J U D G E

Nasim/P.A