

# HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

## Cr. Bail Application No.D-63 of 2023

[Hashim Sand & Others versus The State]

*Before:-*

**Mr. Justice Mahmood A. Khan**

**Mr. Justice Zulfiqar Ali Sangi**

Applicants : Through Mr. Zainuddin Baloch advocate  
State : Through Mr. Shawak Rathore D.P.G  
Date of hearing : 05.09.2023  
Date of Order : 05.09.2023

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### **ORDER**

**MAHMOOD A. KHAN J:-** Applicants seek their admission on post-arrest bail in Crime No.34 of 2023 registered with Sheikh Bhirkio police station for offences punishable under Sections 324, 353, 147, 148, 149 PPC read with Section 6 & 7 of Anti-Terrorism Act 1997. They have raised the same plea before learned trial Court, however, it was turned down vide Order dated 22.07.2023.

2. Facts of the FIR have sufficiently been mentioned in the memo of bail application as well as impugned order, as such there is no need to reproduce the same for the sake of brevity. However, the allegation, per FIR, against the applicants Hashim Sand, Muhram Ali and Ghulam Qadir is that on 08.05.2023 they alongwith co-accused have caused hatchet injuries to police officials while applicant Muzafar made aerial firing.

3. Learned counsel for the applicants argued that applicants are innocent and have falsely been implicated in present crime due to political dispute; that no such incident had taken place and the entire storey is concocted one; that the allegation levelled against the present applicants does not fall within the ambit of prohibitory clause and that co-accused have been granted bail by the learned trial Court, as such applicants are also entitled for the same relief on the rule of consistency.

4. Conversely, learned Deputy Prosecutor General opposed the bail application and states that applicants are nominated in FIR with specific role; however, he frankly conceded that injuries attributed to applicants do not fall within the ambit of prohibitory clause of Section 497 Cr.P.C.

5. We have heard the learned counsel for the applicants as well as learned D.P.G and have also gone through the record with their able assistance.

6. The alleged incident had taken place on 08.05.2023, whereby applicants Hashim, Muhram, and Ghulam Qadir have been accused to have caused hatchet injuries to PC Gulsher Ali, PC Ali Nawaz and PC Ashfaque Mughal while applicant Muzafar Sand has been alleged that he alongwith co-accused had made straight firing upon above said police officials, however, perusal of record shows that none of the police officials have received any single firearm injury. Record further reveals that applicants Hashim and Muhram shown to have been arrested on the same date viz: 08.05.2023 alongwith .30 bore pistols, for which separate FIRs bearing No.38 and 39 of 2023 under Arms Act were registered against them, although in present crime the said applicants have been nominated with hatchet. Irrespectively both said applicants have been acquitted by the learned trial Court from the charge of Arms Act vide Judgements dated 11.08.2023.

7. Perusal of record further shows that no allegation of causing injury has been attributed to applicant Muzafar Sand. As far as applicants Hashim Sand, Muhram Ali and Ghulam Qadir are concerned, the injuries attributed to them, per medical certificate available with learned D.P.G in police papers, do not fall within the ambit of prohibitory clause of Section 497(1) Cr.P.C, as such grant of bail in such like cases is rule while refusal is an exception. Reliance in this regard is placed on the reported case of MUHAMMAD IMRAN versus The STATE [PLD 2021 SC 903]. Additionally, the co-accused namely Mehar Ali and Mashooq Ali, who have been alleged to have caused lathi blows to aforesaid police officials, have been granted bail by the learned trial Court vide Order dated 20.06.2023, therefore, rule of consistency is also applicable in present case.

8. The above discussion led us to hold that applicants have made out their case one of the further inquiries. Accordingly captioned bail application is allowed and in result whereof applicants are admitted to post-arrest bail in present crime, subject to furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand) each and a P.R Bond in the like amount to the satisfaction of learned trial Court. It is, however, observed that learned trial Court is competent to take necessary action against the applicants in accordance with law without making any reference to this Court, in case they misuse the concession of bail at any stage.

9. Needless to mention here that observations made above are tentative in nature and the same shall not prejudice the case of either party at trial.

Captioned bail application stands disposed of accordingly.

JUDGE

JUDGE