

## IN THE HIGH COURT OF SINDH AT KARACHI

### Criminal Bail Application No.653 of 2023

Applicant : i. Muhammad Hanif S/o Muhammad Yousuf  
ii. Muhammad Yousuf S/o Muhammad Hanif  
through Mr. Liaquat Ali Khaskheli, Advocate

Complainant : Faisal S/o Nabi Bux  
None present.

Respondent : The State  
Through Mr. Abrar Ali Khichi,  
Assistant Prosecutor General, Sindh

Date of hearing : 11.09.2023

Date of order : 11.09.2023

### **ORDER**

**AMJAD ALI SAHITO, J** -- Through this Bail Application, applicants/accused seek pre-arrest bail in Crime No.49/2023 for the offence under Sections 324, 344 PPC registered at PS Memon Goth, after their bail plea has been declined by the learned Additional Sessions Judge-VI, Malir, Karachi vide order dated 21.03.2023.

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

3. Per learned counsel for the applicants, the applicants are innocent and have falsely been implicated in this case; that in fact the complainant party has attacked upon the accused persons, resultantly, accused Yousuf got step wounds in his chest; that the place of incident is the house of the accused and the complainant used to have narcotics; that the complainant party was aggressive and attacked upon the accused persons; that there was no outstanding amount against the accused persons as claimed by the complainant; that the applicants are regularly attending the Court and they are not misusing the concession of bail, as such, they are entitled for confirmation of bail. In support of his contentions, he has relied upon the medical certificate and pictures which show that the applicant Yousuf has received step wound. He has also relied

upon the cases reported as PLD 2009 Supreme Court 58 (Muhammad Shahzad Siddique vs. The State and another), SBLR 2017 Sindh 870 (Syed Ali Akbar Shah vs. The State) and 2011 SCMR 606 (Abdul Hameed vs. Zahid Hussain alias Papu Chaman Patiwala).

4. On the other hand, learned Addl. P.G. has vehemently opposed for confirmation of bail.

5. Heard arguments and perused the record.

6. Admittedly, the place of incident is house of the accused persons where the incident took place. Accused Yousuf also received step wound in his chest, which can be verified from the medical certificate as well as picture available in the file. So far as outstanding amount is concerned as claimed by the complainant in the FIR that he has given Rs.10 lacs to accused persons, out of which he has received Rs.5 lacs and remaining Rs.5 lacs is still lying with the accused, no evidence is available on record to believe the same. Learned counsel for the applicants has also pleaded malafide on the part of complainant as the complainant is son-in-law of accused Muhammad Hanif and being drug-addicted and due to dispute with his wife, he has falsely implicated the accused in the FIR. Further, since the place of incident is house of the accused, as such, it is presumed that the complainant was aggressive for attacking upon the accused. At bail stage, only tentative assessment is to be made and deeper appreciation is not permissible.

9. In view of the above, learned counsel for the applicants has made out case for grant of bail in terms of subsection 2 of section 497 Cr.P.C. Resultantly, the instant bail application is **allowed**. The interim pre-arrest bail granted to the applicants/accused vide order dated 24.03.2023 is hereby confirmed on same terms and conditions. The Applicants are directed to attend the trial. However, it is made clear that if the applicants/accused misuse the concession of bail, learned trial Court would be at liberty to take appropriate action.

10. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant/accused on merits.

JUDGE