

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Bail Application No.S-947 of 2023

[Imdad Ali @ Ubaidullah versus The State]

Applicant : **Through Mr. Mufeed Ahmed Narejo advocate**
Complainant : **In person**
State : **Through Ms. Sana Memon Assistant P.G**
Date of hearing : **06.10.2023**
Date of Order : **06.10.2023**

ORDER

MAHMOOD A. KHAN J:- Applicant seeks interim pre-arrest bail in Crime No.22 of 2023 registered at P.S Phulji Station District Dadu under Section 457 and 380 PPC, after rejection of his plea for the same relief by the learned trial Court vide Order dated 08.08.2023.

2. Since the facts of prosecution case are sufficiently mentioned in the F.I.R as well as impugned order passed by the learned trial Court, therefore, there is no need to reproduce the same for the sake of brevity. However, the allegation against the applicant is that on 23.07.2023 at about 01:30 hours night he alongwith co-accused entered into the house of Complainant and taken away buffalo of the Complainant by force of weapons.

3. Learned counsel submits that applicant is innocent and has falsely been implicated in this crime by the Complainant with malafide intentions and ulterior motives; that there is unexplained delay of about 08 days in lodgment of FIR, as such due deliberations and false implication cannot be ruled out; that there is old enmity between the parties on passage from the land, as such this false case has been registered against accused party. He next submits that in such like cases grant of bail is a rule while refusal will be an exception. He, therefore, prays that applicant may be granted bail.

4. Learned Assistant P.G assisted by the Complainant, however, opposed the bail application and prayed for its dismissal, stating the applicant is nominated in FIR with specific role. Learned APG however, admits that no recovery has been effected from the co-accused who are behind the bar.

5. Heard learned counsel for applicant as well as learned A.P.G and have also perused the material available on record.

6. Admittedly the FIR was registered with a delay of about 08 days for which no plausible explanation has been furnished by the Complainant. Further there is no previous criminal history of the applicant at this stage. Per learned A.P.G challan of the case has already been submitted and nothing has been recovered, as to the alleged weapons and buffalo, from the co-accused. Besides there is no allegation against the present applicant that he is not attending the trial and/or misusing the concession of interim pre-arrest bail, therefore, putting him behind the bar at bail stage is not called for.

7. In view of the above position of the case, I am of the view that applicant has successfully made out his good prima facie case of further enquiry as envisaged under sub-section (2) to Section 497 Cr.P.C. Accordingly, instant Criminal Bail Application is allowed and in result thereof interim pre-arrest bail, granted to the applicant vide Order dated 29.08.2023, is hereby confirmed on the same terms and conditions. However, the learned trial Court shall be competent to take necessary action against the applicant/accused without making any reference to this Court, in case he misuses the concession of pre-arrest bail at any stage.

8. It needs not to reiterate that the observation(s) made hereinabove is/are tentative in nature and the same shall not prejudice the case of either party during trial.

Captioned bail application stands disposed of accordingly.

JUDGE

Sajjad Ali Jessar