

*Order Sheet*

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

**Cr. Bail Appln: No.S-664 of 2023**

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DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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For orders on office objection  
For hearing of main case

**09.10.2023**

Applicants are present on bail.  
Mr. Waqar Ahmed Bhurgri advocate for applicants.  
Ms. Rameshan Oad, A.P.G. for the State.

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**ZULFIQAR ALI SANGI, J** :- Through instant bail application, applicants Darya Khan and Qaim @ Dadoo, both sons of Dhani Bux Khoso seek their pre-arrest bail in Crime No.61 of 2023, registered at PS Pangrio for offences under sections 381-A and 34, PPC. After their bail was declined by learned Sessions Judge, Badin vide order dated 21.06.2023.

2. Since the facts of the prosecution case are already mentioned in F.I.R as well impugned order, therefore, there is no need to reproduce the same.

3. Learned counsel for applicants submits that applicants being innocent have been falsely implicated in this case by the complainant with malafide intention and ulterior motives; that FIR is belated by two days without any plausible explanation furnished by the complainant; that the incident had gone un-witnessed and there is no eye witness of the incident; that there is no specific time of alleged incident is shown in the FIR; that alleged offence does not fall within the prohibitory clause of section 497, Cr.P.C; that there is no apprehension to tamper with the prosecution evidence; that applicants are neither previous convict or hardened criminal; that co-accused Karam and Wazeer have been granted bail by the learned trial Court vide order dated 27.06.2023; that all PWs are interested and set-up by the complainant, as there is no any independent witness of the alleged offence. He next submits that the offence with which applicants are charged are not punishable with death or imprisonment for life. Lastly, he contends that applicants are on interim pre-arrest bail earlier granted to them by this

Court and are regularly attending the trial Court, therefore, he prayed for confirmation of interim pre-arrest bail of the applicants.

4. On the other hand, learned A.P.G appearing on behalf of the State half heartedly opposed the confirmation of interim pre-arrest bail of the applicants.

5. Heard and record perused with their able assistance.

6. The background of the case is that the incident is unseen as nobody had seen any of the applicants by committing the alleged offence and there is delay of two days in lodgment of the FIR , which has not been properly explained by the complainant. It is amazing to say that in the FIR, complainant has nominated the present applicants on the plea that they tracked the foot prints of the culprits which led them to the houses of the present applicants and later on complainant came to know that the applicants have committed the alleged offence and this aspect of the case will be thrashed out by the learned trial Court after recording of evidence as to whether the applicants are involved in this offence or FIR has been lodged by the complainant in a fashion. It is a fact that the offence with which the applicants are implicated does not fall within the prohibitory clause of section 497, Cr.P.C. Co-accused Karam and Wazeer have been granted bail by the learned trial Court vide order dated 27.06.2023. The case has already been challaned before the competent Court of law and applicants are no more required by the police for further investigation. The applicants are attending the trial Court regularly and there is nothing on record to show that they misused the concession of bail. At bail stage, only tentative assessment is to be made. In view of above circumstances, the applicants have made out a case of further inquiry entitling them for confirmation of interim pre-arrest bail. Consequently, instant bail application is allowed and ad-interim pre-arrest bail earlier granted to the applicants vide order dated 26.06.2023 is hereby confirmed on the same terms and conditions.

7. The applicants, who are present on interim bail has been confirmed as above, are directed to attend the learned Trial Court regularly if they fail to appear, the Trial Court would be at liberty to take action against them in accordance with law.

8. Needless to mention here that the observations made hereinabove are tentative in nature and will not prejudice the case of either party at the time of trial.

9. This bail application stands disposed of in the above terms.

JUDGE