

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-877 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE
	1. For orders on office objections. 2. For hearing of main case.

**23.09.2024**

Applicants present on bail.  
Mr. Ghulam Hussain Palari, Advocate for applicants.  
Mr. Zulfiqar Ali Chang, Advocate for complainant.  
Ms. Rameshan Oad, Assistant Prosecutor General, Sindh.  
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Applicants Niaz Ahmed and others seek pre-arrest bail in FIR No.145 of 2024 registered under sections 337-A(ii), 337-A(i), 337-F(i), 504 and 34 P.P.C at PS Hatri Hyderabad as their earlier bail for same relief was declined by the learned IX-Additional Sessions Judge Hyderabad vide order dated 05.08.2024, hence this bail application.

It is alleged in the FIR that complainant Imtiaz Ali refused applicants to overtime at hotel whereon they being armed with deadly weapons caused him injuries, hence the FIR has been registered.

The bail has been sought on the ground that this is a counter case wherein FIR bearing No.155 of 2024 registered by the applicants party the complainant also has been granted bail; that there is delay of about 20 days in lodgment of FIR which has not been explained; that all the sections applied are bailable except section 337-A(ii) P.P.C which is punishable upto five years and does not fall within the prohibitory clause of section 497 Cr.P.C.

The bail has been opposed by counsel for complainant on the ground that applicants are nominated in the FIR with a specific role supported by statements of the prosecution's witnesses under section 161 Cr.P.C and the medical evidence.

After going through the FIR and the impugned bail order, learned APG has conceded confirmation of bail on the ground that all the sections are bailable except section 337-A(ii) P.P.C which is punishable upto imprisonment of five years and same does not come within the ambit of prohibitory clause of section 497 Cr.P.C.

Heard learned counsel for the parties and perused the material available on the record.

From perusal of record it reflects that the offence as alleged was taken place on 03.07.2024 whereas FIR was registered on 22.07.2024 for that no plausible explanation has been furnished by the complainant. The FIR No.155 of 2024 has been registered by applicants party and it is admitted by counsel for complainant that all the accused in said FIR are on bail. The offence for which the applicants are involved punishable upto five years and same does not fall within the prohibitory clause of section 497 Cr.P.C and in these matters bail is right and refusal is an exception as has been held by the Supreme Court in the case of Muhammad Tanveer v. the State & another (PLD 2017 SC 733). It is settled by the Honourable Apex Court that deeper appreciation of the evidence is not permissible while deciding the bail application and same is to be decided tentatively on the basis of material available on record. The case has already been challaned before the Court of law and the custody of applicants is not required.

There is also nothing on record to show that the applicants have misused the interim pre-arrest bail granted to them.

In view of the foregoing circumstances, the applicants succeeded to make out their case for confirmation of pre-arrest bail. As such, pre-arrest bail already granted to the applicants vide order dated 07.08.2024 is confirmed on the same terms and conditions.

Needless to mention that above observations are tentative in nature only to decide instant bail application and same would not prejudice case of either party at trial.

JUDGE

Muhammad Danish \*