

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**  
 Crl. Bail Application No. S -544 of 2023  
*(Saeed Ahmed & another Vs. The State)*

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For hearing of bail application.

**12-02-2024.**

M/s Sohail Ahmed Khoso and Abdul Qadeer Khoso advocates for the applicants.

Mr. Abdul Rasheed Kalwar, advocate for the complainant.

Mr. Aftab Ahmed Shar, Additional P.G for the State.

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**Irshad Ali Shah, J;-** It is alleged that the applicant with rest of the culprits after having formed an unlawful assembly and in prosecution of their common object, not only committed murder of Gul Hassan by causing him fire shot injuries, but also caused fire shot injuries to PW Rahib with intention to commit his murder and then went away by making fires in air to create harassment, for that the present case was registered.

2. The applicants on having been refused pre-arrest bail by learned IInd Additional Sessions Judge, Mirpur Mathelo have sought for the same from this Court by way of instant Crl. Bail Application under Section 498-A Cr.P.C.

3. It is contended by learned counsels for the applicants that the applicants being innocent have been involved in this case falsely by the complainant in order to satisfy his old enmity with them; the FIR has been lodged with delay of about 01 day and on investigation, the applicants have been declared innocent by the police; therefore, they are entitled to be admitted to pre-arrest bail as they are apprehending their unjustified arrest at the hands of the police. In

support of their contention, they relied upon case of *Ch. Saeed Ahmed Khalil Vs. The State and others* (2023 SCMR 1712).

4. Learned Additional P.G for the State and learned counsel for the complainant have opposed to grant of pre-arrest bail to the applicant by contending that the applicants have actively participated in commission of the incident by causing injuries to the deceased and the injured and they were declared innocent by the police on the basis of dishonest investigation, which could not stand before the Court of law. In support of their contention they relied upon case of *Allah Dewayo Shahani Vs. The State* (2023 SCMR 1724).

5. Heard arguments and perused the record.

6. As per FIR, the applicants with rest of culprits after having formed an unlawful assembly in prosecution of its common object, went over to the complainant party committed murder of Gul Hassan by causing him fire shot injuries and then caused fire shot injuries to PW Rahib with intention to commit his murder. The specific role of causing one of the fire shot injury to the deceased and injuries to the injured is attributed to the applicants; therefore, it would be immaterial to say that the applicants being innocent have been involved in this case falsely by the complainant only to satisfy his enmity with them. The enmity between the parties may be there, but it may not be a reason for false involvement of the applicants in case like the present one. The delay in lodgment of the FIR by one day is well explained in FIR itself, same even otherwise could not be resolved by this Court at this stage. The applicants were declared

innocent by the police on the basis of plea of *alibi*, by disbelieving the version of the complainant party, which prima-facie suggest their involvement in the commission of incident with active participation. There appear reasonable grounds to believe that the applicants are guilty of the offence with which they are charged and no case for grant of pre-arrest bail to them is made out.

7. The case law which is relied upon by learned counsel for the applicants is on distinguishable facts and circumstances of the case. In that case no post mortem was conducted on the dead body of the deceased and death of the deceased was suggested to be an act sui-side. In the instant case, the death of the deceased has never been alleged to be an act of sui-side.

8. In view of above, the instant bail application is dismissed.

Judge