

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.**

Criminal Bail Application No.S-36 of 2024

Applicant : Muhammad Naeem through Mr. Gulzar Ahmed Almani,
Advocate.

Complainant : Muhammad Azam, through Mr. Mehmood Alam Abbasi
Advocate.

Respondent : The State through Ms. Rameshan Oad, Asst. P.G Sindh
a/w ASI Muhammad Yaqoob Lakho PS Berani.

Date of hearing : **01.02.2024**

Date of Order : **01.02.2024**

O R D E R

AMJAD ALI SAHITO, J:- Through instant bail application, the above named applicant/accused seeks pre-arrest bail in Crime No.51of 2023, for offence under sections 382, 506(2), 419, 34 PPC registered at P.S. Berani, after his bail plea was declined by the learned Additional Sessions Judge-I, Tando Adam, vide his order dated 08.01.2024.

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

3. Learned counsel for the applicant has contended that the applicant / accused is innocent and has falsely been implicated in this case; that F.I.R is delayed for about four (04) days for which no plausible explanation has been furnished; that co-accused have already been granted bail by the trial Court as such the applicant is also entitled for the same relief. He lastly prayed for confirmation of bail.

4. On the other hand, learned Asst. P.G along with learned counsel for the complainant has vehemently opposed to the grant of bail to the applicant/accused.

5. I have heard the parties present in Court, and have gone through the available record.

6. Perusal of the record shows that the name of applicant / accused appears in the F.I.R with specific role; that on the night of incident the applicant and co-

accused persons were present at the place of incident and their faces have been recognized by the complainant so also the complainant saw one Mazda having registration No.AH-0286 and Blue Colour Datsun having Registration No.KQ-8654 which were used by the accused persons for transportation of theft articles; that photograph of all accused persons have also been captured by the complainant. The prosecution witnesses also support the version of the complainant in their 161 Cr.P.C. statements. During course of arguments, when it was enquired from the learned counsel for the applicant/accused to point out any enmity with the complainant he has replied unsatisfactory which is essential requirement for grant of bail. Furthermore, no ill-will or malafide is alleged against the complainant party by the applicant even otherwise he has shown in F.I.R with specific role. In this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakistan [2019 S C M R 1129] wherein the Hon'ble Supreme Court of Pakistan has held as under:

“Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation..... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law.”

7. At bail stage, only tentative assessment is to be made. In view of above discussion, there is sufficient material available on record to connect the applicant/accused in the commission of offence and so also he has also failed to make out a good case for confirmation of bail. Consequently, the bail application is dismissed and the interim pre-arrest bail earlier granted to the applicant/accused vide order dated 12.01.2023 is hereby re-called.

8. 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 on merits.

JUDGE

Hafiz Fahad