

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

Criminal Bail Application No.S-1335 of 2023

Applicant : None present.

Complainant : Through Mr. Mazhar Ali Laghari, Advocate.

Respondent : The State through Ms. Rameshan Oad, Asst. P.G Sindh
a/w ASI Saboo Khan PS Jam Nawaz (I.O).

Date of hearing : **18.01.2024**

Date of Order : **18.01.2024**

O R D E R

AMJAD ALI SAHITO, J:- Through instant bail application, the applicants/accused seek pre-arrest bail in Crime No.40 of 2023, for offence under sections 324, 114, 34 PPC, registered at P.S. Jam Nawaz Ali, after his bail plea was declined by the learned Additional Sessions Judge-I, Tando Adam, vide order dated 28.11.2023.

2/- Instant Cr. Bail Application was presented on 06.12.2023 and on the same day the ad-interim pre-arrest bail was granted to the applicants/accused and matter was adjourned to be fixed on 18.12.2023 for confirmation or otherwise. On 18.12.2023, learned counsel for the complainant filed Vakalatnama and matter was adjourned to 15.01.2024. Thereafter, on 15.01.2024, the applicants were present on bail however, their counsel was called absent and therefore, matter was again adjourned for today with a note of caution that if none appears the matter shall be decided in accordance with law. Today, once again neither the applicants nor their counsel are present. Under these circumstances, I have heard learned A.P.G appearing on behalf of State, counsel for complainant and perused the material available on record with their able assistance.

3/- 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.

4/- Learned Asst. P.G assisted by learned counsel for the complainant vehemently opposed to the grant of bail by contending that the name of applicants/accused transpired in the F.I.R with specific role.

5/- Admittedly, the name of applicants/accused appear in the F.I.R with specific role that on the day of incident they along with co-accused persons duly armed with lethal weapons came at the place of incident and made direct fire upon the injured Moosa and resultantly he has received fire arm injuries and as per medical certificate issued by the concerned M.L.O the injured Moosa received as many as nine (09) injuries on different parts of body. The prosecution witnesses also support the version of the complainant in their 161 Cr.P.C. statements. Furthermore, no ill-will or malafide is alleged against the complainant party by the applicants even otherwise they have 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.”

6/- 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 applicants/accused in the commission of offence and so also they have 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 applicants/accused vide order dated 06.12.2023 is hereby re-called. A copy of this order be communicated to the learned trial Court for information.

7/- 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