

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Cr. Bail App. No. S – 93 of 2024

Date of hearing	Order with signature of Judge
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Hearing of bail application

1. For orders on office objections at Flag-A
2. For hearing of bail application

15.04.2024

Mr. Arif Ali Abbasi, Advocate for applicants along with applicants.
Mr. Muhammad Yasir Kalhoro, Advocate for complainant along with complainant, who has filed a statement along with certain documents.
Mr. Aftab Ahmed Shar, Additional Prosecutor General.

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Muhammad Iqbal Kalhoro, J. – As per FIR, on account of a dispute over agricultural land, applicants along with others waylaid complainant party comprising Muhammad Awais, his brothers Roshan Ali and Imdad Ali, when they were going to their land from their home on 17.12.2023 at about 1550 hours, and started beating them with *lathis* at the instigation of applicant Abdul Khaliq, who is also said to have caused *lathi* blows to Roshan Ali, causing him four (04) injuries, minor and bailable in nature, falling U/S 337-A(i) PPC. However, applicant Maqsood caused three (03) injuries to complainant Muhammad Awais with his *lathi*, causing him fracture. Applicant Nisar Ahmed was armed with a repeater, which he fired upon Imdad Ali, who sustained at least two (02) injuries, both falling U/S 337-F(v) PPC, non-bailable.

2. Learned Counsel in defense has pleaded for bail on the ground that applicants have been falsely implicated; there are counter cases between the parties; the injuries are on non-vital parts; there is civil litigation between the parties. His arguments have been opposed by learned Counsel appearing for the complainant. However, learned Additional Prosecutor General, keeping in view bailable nature of injuries to Roshan caused by applicant Abdul Khaliq, has recorded no objection to his bail, but has opposed bail to other two (02) applicants.

3. I have considered submission of parties and perused material available on record. The injuries inflicted to complainant party are serious in nature and non-bailable. Such nature of injuries is supported by medical certificates as well as statements of witnesses recorded U/S 161 CrPC. On the very day viz. 17.12.2023, the injured, under a police letter, had reached the hospital for treatment, which implies that on the very day they

had approached the police, but the police did not register the FIR on the same day. The point of a counter case between the parties has been thoroughly discussed by the learned Additional Sessions Judge while dismissing the bail application of the applicants. He has opined that it was in fact no counter case as is the time of incident in that FIR is different. Moreover, the injuries sustained by the accused party in that case were minor in nature. Furthermore, pendency of civil case between the parties does not entitle the accused to grant of extra ordinary concession of pre-arrest bail, who have been assigned specific role of causing injuries to the victims. Applicants are nominated in the FIR with specific role of causing injuries; hence, in my view, they are not entitled to concession of pre-arrest bail.

4. Nonetheless, case of applicant Abdul Khaliq, keeping in view his minor role, is different on merits *prima facie*, and more so, learned Additional Prosecutor General has recorded no objection to his bail. Therefore, except applicant Abdul Khaliq, bail application of two remaining applicants is **dismissed** and ad-interim pre-arrest bail earlier granted to them by this Court, vide order dated 15.02.2024, is hereby **recalled**. However, bail application of applicant Abdul Khaliq is **allowed**, and ad-interim pre-arrest bail already granted to him, vide order dated 15.02.2024, is hereby **confirmed** on the same terms and conditions.

5. The observations, as above, are tentative in nature and not meant to affect merits of the case before the trial Court.

The bail application stands **disposed of** in the above terms.

J U D G E

Abdul Basit