

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr.Bail Appln:No.S-1208 of 2024

Applicant: 1) Shafique son of Muhammad Yaqoob, 2) Ameer Bux son of Muhammad Qasim and 3) Naseer son of Muhammad Saffar, through Raja Jawad Ali Saahar, Advocate.

Complainant: Through Mr. Ashique Hussain D. Solangi, Advocate.

Respondent: The State through Ms. Rameshan Oad, A.P.G.

Date of hearing: **17.01.2025**

Date of Order: **17.01.2025**

O R D E R

AMJAD ALI SAHITO, J:- Through the instant bail application, the applicants/accused above named seek post arrest bail in Crime No.06 of 2024, under section 324, 147, 148, 149, 504, 337-H(ii), 114/337-A(i), 337-F(i) PPC, registered at P.S. Aamri, after their bail plea was declined by the learned trial Court vide order dated 22.10.2024.

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. Per learned counsel for the applicants, the applicants are innocent and have falsely been implicated by the complainant due to enmity; that in the first part of the FIR though it has been disclosed that the present applicants/accused Ameer Bux and Naseer were armed with Dandas but in the second part of FIR it shows that they

have not participated actively in the commission of offence, however, the role so assigned against applicant/accused Shafique is that he has given Danda blow to the head of Mehtab and the same has been declared under Section 337-A(i) PPC; that the entire family has been roped by the complainant otherwise applicants/accused were not present at the place of occurrence; that the applicants/accused are in jail and they are no more required for further investigation. He lastly prayed for grant of bail to the applicants/accused.

4. On the other hand, learned counsel for the complainant as well as learned A.P.G for the State vehemently opposed this bail application and state that the name of applicants/accused appeared in the FIR with specific role. However, on a query of the Court, learned A.P.G admitted that there is no role assigned against applicant/accused Ameer Bux.

5. Heard argument and perused the record.

6. From perusal of record it reflects that though the name of applicants/accused appeared in the first part of FIR but in the second part of the FIR no evidence has been brought on the record that the applicants/accused Ameer Bux and Naseer have participated in the commission of offence. Furthermore, if, any role assigned against applicant/accused Shafique that he has given Danda blow to one Mehtab but the injury has been declared by the Doctor as under Section 337-A(i) and F(i) PPC, which are bailable, hence, it is yet to be seen whether the applicants/accused have shared their common intention or not when the evidence will be

recorded. In the case of *Mumtaz Hussain and 5 others v. The State (1996 SCMR 1125)*, the bail was granted to accused on the ground that despite being allegedly armed with deadly weapons like rifle, gun and hatchet only caused simple blunt injuries to some of the prosecution witnesses using the wrong side of their weapons. The question whether the accused in such a situation shared his common intention with the co-accused who had caused the death of the deceased needed further inquiry. In such view of the matter, at bail stage only tentative assessment is to be considered and tentatively the counsel for applicants/accused has made out the case for grant of bail in favour of applicants/accused. The case has finally been challaned and there is no apprehension of tempering with the evidence on the part of applicants. The applicants are said to be in custody since their arrest and no more required for further investigation. In these circumstances a case for release of the applicants on bail on point of further enquiry obviously is made out.

7. In view of above, the applicants are admitted to bail subject to their furnishing solvent surety in sum of Rs.100,000/-each and PR bond in the like amount to the satisfaction of learned trial Court.

8. Needless to state that the observations hereinabove are tentative, and nothing herein shall be construed to prejudice the case of either side at trial.

9. The instant application is disposed of accordingly.

JUDGE

