

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-482 of 2024

Criminal Bail Application No.S-602 of 2024

DATE

ORDER WITH SIGNATURE OF JUDGE

30.09.2024

Mr. Abdul Hameed Bajwa, Advocate for applicants.

Mr. Mazhar Ali Lagahri, Advocate for complainant.

Ms. Rameshan Oad, Assistant Prosecutor General, Sindh.

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O R D E R

ZULFIQAR ALI SANGI, J:- Through these bail applications, applicants have sought for pre-arrest bail in Crime No.80 of 2024 registered under sections 436, 382, 506/2, 341, 147, 148, 149, 504 and 337-F(i) PPC at PS S.F Rahu, after dismissal of their bail plea by the learned 1st Additional Sessions Judge/MCTC, Badin vide separate orders dated 08.05.2024 & 30.05.2024, hence they approached this Court. Since both cases are inter-connected, therefore, common order is being passed.

2. The essence of FIR is that applicants in furtherance of their common object being disputed over the matter of not selling agriculture land to them not only set on fire the Otaque owned by complainant but also caused him kicks and fists blows after being tied him with rope and then went away by taking away his motorcycle and mobile phone, hence the FIR.

3. The bail has been sought only on the ground that there appears enmity in between the parties over an agricultural land where applicant party was in possession and they have filed a Civil Suit bearing No.16 of 2021 same is pending for adjudication; that earlier an application under section 22-A & B Cr.P.C was filed and same was disposed of in their favour and subsequent thereto complainant party by managing a false case has attacked upon the applicant party and took possession of disputed land and thereafter registered the FIR with false facts, therefore, the case requires further inquiry.

4. The above contentions have been opposed by counsel for complainant and learned APG on the ground that applicants are nominated in FIR with specific role having been supported by the PWs; that the recovery from place of incident also supported the case of complainant; that the enmity is a double edge weapon which can be used against either party; that sufficient material to connect the present applicants with the commission of offence is available on the record, therefore, they are not entitled for confirmation of bail.

5. Heard learned counsel for the respective parties and perused the material available on record.

6. It reflects from the record that there is an admitted enmity in between the parties over an agricultural land and prior to present FIR another FIR and Civil Suit were filed which are pending adjudication before Court(s) having jurisdiction. Perusal of mashirnama of place of incident it also reflects that only *Chapra* was available at place of alleged offence having no boundary wall, no protective hedge and there is no evidence supporting the complainant's version made in FIR that articles which are used for sitting and sleeping of the people were

available there even the allegation regarding applicability of offence under section 436 P.P.C will be decided by the Trial Court after recording evidence. With regard to the section 382 PPC is concerned, it provides punishment which may extend to 10 years starting from zero to ten years and lesser sentence is to be considered while deciding the bail matter whereas section 436 PPC's punishment provided in statute is imprisonment for life or with imprisonment of either description for a term which shall not be less than three years nor more than 10 years and lastly the offence of section 341 PPC being bailable punishable upto one month's sentence or fine of Rs.1500/- or both. Looking to the facts and admitted enmity in between the parties over pending Civil Suit for adjudication, the case of applicants require further inquiry entitling them for confirmation of bail, therefore, both the bail applications are **allowed**. Interim pre-arrest bail earlier granted to applicants vide order dated 13.05.2024 & 03.06.2024 are hereby confirmed on same terms and conditions.

7. The observations made hereinabove are tentative and would not influence the learned Trial Court at the time of deciding the case as the same are only for deciding these bail applications.

*Muhammad Danish**

JUDGE