

**IN THE HIGH COURT OF SINDH  
CIRCUIT COURT MIRPURKHAS**

Crl. Bail Application No.S-224 of 2024  
(*Ali Gohar & another Vs. The State*)

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**DATE            ORDER WITH SIGNATURE OF JUDGE**

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Date of hearing & Order 25.09.2024

Mr. Jeelaji, advocate for the applicants.

Mr. Mir Parvez Akhtar Talpur, advocate for the complainant.

Mr. Dhani Bux Mari, A.P.G Sindh

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**ORDER**

*Adnan-ul-Karim Memon, J:*    The applicants Ali Gohar and Abdul Sattar are seeking post-arrest bail in F.I.R No.42 of 2024 for the offenses punishable under sections 302, 324, 147, 148, 149, 114, 337-A(i), F(i), & 504 PPC at Police Station Diplo, District Tharparkar @ Mithi.

2.    The trial Court declined their earlier bail plea vide order dated 30.07.2024 on the premise that the applicants along with their accomplices are actively implicated in the FIR for assaulting upon victim party with sticks and hatchets, resulting in the death of deceased Sikandar and serious injuries to witnesses namely Abdullah and Mashooque and such accusations are well supported by medical evidence and ocular account of eyewitnesses; that delay in registration of FIR is immaterial and the alleged offense falls within prohibitory clause of section 497(1) Cr.P.C.

3.    Learned counsel for the applicants argued that the applicants are innocent, have been falsely implicated by the complainant due to an existing land dispute; that the complainant has fabricated a false story with malicious intent to harm the applicants; that despite lacking specific evidence or independent witnesses to support their claims, the complainant has accused the applicants of involvement in a violent incident; that the applicants have no criminal history and pose no threat to the trial process; that denying them post-arrest bail would cause irreparable harm to their reputation and hinder their ability to defend themselves effectively; that the evidence presented by the complainant is weak and warrants further investigation; that following bail laws, bail should not be used as a punishment; that any doubt benefit should go to

the accused. In support of his contentions, he has relied upon the cases of Muhammad Rafique Vs. The State [2023 MLD 1528], Adil Zaman Vs. The State [2022 YLR Note 104] & Syed Junaid Ahmed Vs. The State [2023 YLR 1740]. Therefore, the applicants may be granted post-arrest bail as they are not required for further investigation and pose no risk to the trial process.

4. Learned APG duly assisted by the learned counsel for the complainant has opposed the bail on the premise that the applicants are nominated in F.I.R with the specific role of commission of offenses, whereby both the applicants along with other accused persons in the prosecution of their common object caused serious injuries to injured Abdullah and Mashooq and also murdered to Sikander by inflicting hatchets and lathi blows. The final medical certificates of both injured persons are available on record and a provisional postmortem report is also available on record, wherein, it is mentioned that the deceased had sustained four injuries on different parts of his body. The offense is serious and heinous and falls within the prohibitory clause of section 497 Cr.P.C.; that complainant and both injured in their statements U/S 161 Cr.P.C. have supported the version as set up in FIR; that the applicants have been fully implicated in the heinous offense as alleged above. About the delay in lodging of FIR, it is urged that in such type of heinous cases usually delay occurs in lodging FIR. However, after the incident the complainant brought the injured to PS and sought a letter for treatment and then went to the hospital where injured Sikander succumbed due to injuries such matter was promptly reported on the same day, hence, delay if any has been properly explained; that while deciding bail applications, deeper appreciation of evidence is not warranted and only bird's eye view is to be made from tentative assessment of the material available on record, as such deeper appreciation of evidence is not permissible of the law at bail stage; that no any strong malafide/ill-will on the part of complainant pointed out for false implication of the applicants in the present case; that it is a heinous and serious crime, which needs to be deprecated and must be dealt with iron hands; that there is sufficient material on record to connect the applicants with the crime. The applicants have failed to make out the case for a grant of post-arrest bail, therefore, their bail plea may kindly be discarded.

5. I have the learned counsel for the parties and perused the material available on the record and case law cited at the bar.

6. The applicants are accused of a heinous crime, including murder, and prima facie, there is sufficient incriminating evidence to connect them to the alleged offenses. It is well settled that while the court does not delve into a deep analysis of the evidence at this stage, the available materials, including the FIR, witness statements, and medical reports, support the prosecution's allegations. The delay in lodging the FIR is explained by the nature of the incident and the immediate medical attention required for the injured. There is no evidence of any malicious intent on the part of the complainant. The gravity of the charges and the potential for the applicants to influence witnesses or tamper with evidence, granting bail at this stage would not be appropriate. Therefore, the bail application is dismissed. The trial court is directed to examine the material witnesses within two months and if the charge is not framed the same shall be framed on the date so fixed by the trial court. The direction of this court shall not be ignored at all, which has serious repercussions.

7. These are the reasons for my short order dated 25.09.2024 where the instant bail application has been dismissed.

**JUDGE**

*\*Ali Sher\**