

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Cr. Bail Appln. No. S-469 of 2024

Applicants	Muhammad Aalam and others Through Mr. Razi Khan Nabi Bux Chandio,
Complainant	Roshan s/o Peeral Through Mr. Abdul Ghaffar Gopang, Advocate
The State	Mr. Aitbar Ali Bullo, D.P.G for the State
Date of hearing	30-10-2024
Date of order	30-10-2024

ORDER

ARBAB ALI HAKRO, J.- Through this criminal bail application, applicants/accused Muhammad Aalam s/o Banjhi Khan @ Baji, Fida Hussain @ Nang s/o Manzoor @ Manzoor Ali, Hakim Ali, Taswar @ Tasawar Ali and Abdul Ghani s/o Muhammad Aalam seek interim pre-arrest bail in Crime No.28/2024, offence U/S 337-F(v), 337-F(i), 337-A(2), 506/2, 114, 147, 148, 149 P.P.C registered at Police Station Gaji Khuhawar. After the learned trial court declined their bail plea vide order dated 12.08.2024.

2. Brief facts as per F.I.R are that complainant Roshan Sanbhal lodged FIR on 20.10.2024 at P.S Gaji Khuhawar, stating that they have agricultural land situated in Deh Jalbani adjacent to their houses, there is also agricultural land of accused Muhammad Aalam Sanbhal, there is common ridge of both parties at lands. On 10.07.2024, complainant party was available in their house, they received information that accused Muhammad Aalam and others were cutting ridge of land, therefore complainant alongwith his brothers Sher Muhammad, Zulfiqar, nephews Sameer Ali, Ghulam Shabir and Sajid Ali came at land, at about 06:45 AM, they saw accused 1) Muhammad Aalam armed with gun, 2) Fida Hussain @ Nang, 3) Ghulam Murtaza, 4) Hakim Ali, 5) Tasawar and 6) Abdul Ghani, all having lathies standing there and ridge of land was see cut, complainant party asked accused side that they have cut ridge of their land, meanwhile accused Muhammad Aalam instigated other accused, on which accused

Fida Hussain @ Nang caused lathi blows to P.W Sher Muhammad, which hit him on his head, left hand and on other body parts, accused Ghulam Murtaza caused lathi blows to P.W Ghulam Shabir, which hit him on his head and right hand, both P.Ws fell on ground raising cries, accused Hakim Ali caused lathi blows P.W Zulfiqar, which hit him on his head and right arm, accused Tasawar caused lathi blows to P.W Sameer Ali, which hit him on his head, accused Abdul Ghani caused lathi blow to P.W Sajid Ali, which hit him on his right arm elbow, they fell on ground raising cries, which attracted co-villagers, who intervened, accused Muhammad Aalam pointed his gun and issued threats, later accused went away, injured were brought at P.S, letter for treatment was obtained and complainant lodged FIR.

3. Learned counsel for the applicants/accused contends that the applicants/accused are innocent and have falsely been involved in this case by the complainant due to a dispute over agricultural land; that there is a delay of 10 days in registration of FIR, which has been explained; that no independent person has been cited as a witness, all witnesses are interested and related to each other; sections applied in FIR are bailable except Sections 337-F(v) & 506/2 PPC, which do not fall within prohibitory clause of Section 497-(1) Cr.P.C. Learned counsel further submits that grant of bail in such cases is rule and refusal is an exception; that case against the applicants/accused requires further enquiry under Section 497-(2) Cr.P.C. He has, therefore, prayed for confirmation of interim pre-arrest bail.

4. Learned counsel for the complainant has opposed the confirmation of bail, stating that the applicants/accused caused injuries and committed offence; that another relative of the complainant has also registered F.I.R No.25/2024 on 11.07.2024

5. On the other hand, learned DPG has raised no objection to the confirmation of interim pre-arrest bail, stating that there is a ten-day delay in lodging the F.I.R., and the case does not fall within the prohibitory clause of Section 497 Cr.P.C.

6. Heard learned counsel for the applicants/accused, learned D.P.G, learned counsel for the complainant, and perused the material available on the record.

7. It is settled law that at the bail stage, deeper appreciation of evidence cannot be gone into; only it is to be seen whether the accused is prima facie connected with the commission of the offence. In the instant case, the complainant and accused are in dispute/enmity over the lands, as admitted in the FIR by the complainant himself. Further, an alleged incident occurred on 10.07.2024. However, the F.I.R was registered on 20.07.2024 after a delay of about ten days, and no proper explanation was furnished in the F.I.R. The delay in registration of FIR prima facie shows deliberation and consultation on the part of the complainant. The offence for which the applicants/accused are charged carries a punishment of up to seven years, and the same does not fall within the prohibitory clause of Section 497 Cr.P.C and grant of bail in such cases is rule while refusal is an exception as held by Hon'ble Supreme Court of Pakistan in the case titled **Riaz Jafar Natiq Vs. Muhammad Nadeem Dar and others** reported as **2011 SCMR 1708**, wherein it was held as under:-

8. *“Thus keeping in view the law laid down in the case of Zafar Iqbal V. Muhammad Anwar and others” (2009 SCMR 1488) ordaining that granting bail must be favourably considered and should only be declined in exceptional cases”.*

9. Bail should be denied only in exceptional cases, which need to be evaluated based on the facts and circumstances of each case. No exceptional circumstances exist in the instant case to refuse bail to the accused.

10. In view of the above, it appears that the applicants/accused have made a case for confirmation of interim pre-arrest bail in view of subsection (2) of Section 497 Cr.P.C. Accordingly, the instant criminal bail application is allowed. Interim pre-arrest bail already granted to the applicants/accused vide order dated 21.08.2024 is hereby confirmed on the same terms and conditions.

11. Needless to say, the observations made hereinabove are tentative and would not influence the trial Court while deciding the case of the applicant on merits.

J U D G E