

THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Bail No.S-475 of 2024

Applicants: 1. Muhammad Alam son of Muhammad Mureed.
2. Mehboob son of Muhammad Alam
3. Shahid alias Shahid Hussain, son of Muhammad Alam,
all by caste Chandio.
Through Mr. Amanullah Luhur, Advocate.

Complainant: The State: Through Mr. Aitbar Ali Bullo, Deputy
Prosecutor General, Sindh.

Date of Hearing: 24.10.2024
Date of Order: 24.10.2024

ORDER

ARBAB ALI HAKRO, J. :-Through instant Criminal Bail Application, the applicants seek Bail Before Arrest in the case emanating from F.I.R No.132/2024, registered at Police Station Hyderi, District Larkana under Sections 353, 224, 225, 147, 148 P.P.C. Their bail plea has been declined by learned VI-Additional Sessions Judge, Larkana vide Order dated 21.08.2024, hence this bail application.

2. The facts as per F.I.R. are that complainant ASI Mumtaz Ali, along with his subordinate staff, left the police station for investigation of Crime No.131/2024; when they reached Common Street near the house of accused Muhammad Alam, they saw the required accused Rashid in the above crime, standing with an iron rod in his hand, they arrested him and by citing mashirs enquired his name, who disclosed his name as Rashid Chandio, however, accused raised cries, which attracted the (applicants/accused) and others, who resisted in the lawful arrest of accused Rashid, deterred the police officials in performing their duty and got released the apprehended accused on the dint of weapons by making aerial firing. Hence, this F.I.R.

3. Learned counsel for the applicants has contended that the applicants/accused are innocent and have been falsely implicated by the police with malafide intention and ulterior motives; that nothing incriminating has been recovered from the applicants/accused; that all the sections with

which the applicants/accused are charged are bailable except section 225 P.P.C, which carries punishment up to two years, which too does not fall within the ambit of prohibitory clause of section of 497 Cr.P.C; that the witnesses are police officials and related to each other. Therefore, interim pre-arrest bail granted to the applicants/accused vide Order dated 23.08.2024 may be confirmed on the same terms and conditions.

4. Learned Deputy Prosecutor General, Sindh has frankly conceded to the grant of bail to the applicants/accused on the ground that all the sections with which the applicants are charged are bailable except section 225 P.P.C which too does not fall within the prohibitory clause of section 497 Cr.P.C.

5. Heard learned counsel for the applicants, learned Deputy Prosecutor General Sindh, and perused the material available on record.

6. The allegations against the present applicants are that they formed an unlawful assembly and, in the prosecution of the common object of such assembly, deterred the police party from discharging their lawful duties and also offered resistance in order to rescue the apprehended accused Rashid from the lawful custody of the police. However, from the perusal of the F.I.R, it is manifestly clear that no direct role has been assigned to the present applicants. The allegations levelled in the FIR are general in nature, and no evidence is available showing any recovery from the present applicants or any injury caused by the present applicants to any police officials. Thus, the case requires further enquiry in terms of sub-section (2) of Section 497 Cr.P.C. Moreover, the offence with which the applicants/accused are charged does not fall within the prohibitory clause of section 497 Cr.P.C, and bail in such cases is the rule, and its refusal is an exception. Apart from that, all witnesses and mashirs are police officials; therefore, a question of tampering with prosecution evidence does not arise.

7. In view of the above, instant Criminal Bail Application is allowed. The interim pre-arrest bail earlier granted to the applicants/accused vide Order dated 23.08.2024 is hereby confirmed on the enhanced surety in the sum of Rs.50,000/- (*Rupees Fifty Thousand only*) each and P.R.Bonds in the like amount to the satisfaction of the Additional Registrar of this Court.

8. Needless to mention, the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of either party at trial.

Judge

Manzoor