

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Criminal Bail Application No.S-989 of 2024

Applicants : Mir Hassan, Ali Hassan, Ali Haider, Ali Asghar and
Jalal through Mian Taj Muhammad Keerio,
Advocate.

Respondent : The State through Ms. Rameshan Oad, Assistant
Prosecutor General Sindh.

Complainant : Mashooque through Mr. Badal Gahoti, Advocate.

Date of hearing : 21.10.2024.

Date of Order : 21.10.2024.

ORDER.

Amjad Ali Sahito, J:- Through instant bail application, the applicants/accused namely, Mir Hassan, Ali Hassan, Ali Haider, Ali Asghar and Jalal seek pre-arrest bail in Crime No.05/2024, registered at Police Station Khybrani District Matiari for the offence under sections 324, 337-A (i), 337-F (i), 337-H (ii), 147, 148, 149 PPC. Earlier the bail plea of the applicants/accused was declined by the learned Additional Sessions Judge, Matiari vide order dated 16.05.2024.

2. The details of the FIR are included in the bail application and its attached copy, so there is no need to restate them here.

3. Learned counsel for the applicants/accused contends that the applicants/accused are innocent and have falsely been implicated in this case with ulterior motives due to previous enmity; that five persons have been booked in this case from one and the same family; that the FIR is lodged after delay of about three days for which no plausible explanation was furnished by the complainant. He further contends that on the day of incident, the applicant/accused were present on the date of hearing before the Court of learned Additional Sessions Judge Matiari where witnesses were called absent but they are claiming to have attended the Court; that even one of the applicants was hospitalized at that time; that there is conflict between ocular and medical account. Per learned counsel, the applicants/accused are not habitual offenders and they have never misused the concession of bail; that no useful purpose will be served if the applicants/accused are detained in jail. He further submits that as such the applicants/accused are entitled for concession of bail.

4. On the other hand, learned counsel for the complainant and learned A.P.G. Sindh both oppose the grant of bail to the applicants/accused. Learned counsel for the complainant has relied upon the cases reported as

ASHIR WASIM BABAR v. THE STATE [2006 SCMR 407] and MASOOD AHMED alias MUHAMMAD Masood AND ANOTHER v. THE STATE [2006 SCMR 933].

5. Heard and perused the record.

6. The record indicates a history of previous dispute between the parties. The complainant having filed FIR No. 20/2023 for various offenses under sections 324, 147, 148, 149, 504, 109, 227-A (i), 337-F (i) PPC at PS Hala Old. The complainant alleged that while returning from a Court hearing, they were attacked by the applicants' party by firing straight shots and inflicting injuries with blunt and sharp weapons, resulting in multiple injuries. The applicants are nominated in the FIR with a specific role in the incident. They attempted to commit murder of complainant party with common intention which obviously is clear as stated in the FIR.

7. The grounds raised by learned counsel require deeper assessment of the evidence, which can only be determined at the trial. It is important to note that, at the bail stage, only a tentative assessment is made. At present, there is sufficient evidence available that could connect the applicant/accused to the commission of the offense. The murderous assault does not differentiate between vital and non-vital parts of the human body; once the trigger is pulled and the victim is targeted, the intention or knowledge of the assailant becomes evident, as they cannot control the path of the bullet. Consequently, the actions of the applicants/accused fall squarely under Section 324 PPC. It is fortunate that the complainant party was saved from losing their lives. There appears to be no *mala fide* in this case. The prosecution has, *prima facie*, provided sufficient evidence to link the applicants to the commission of the offense.

8. So far the plea of the learned counsel that the applicants/accused have not misused their bail, it is important to note that on 27.08.2024, in a previous Criminal Bail Application No. S-542 of 2024, the applicants were absent without intimation. Their counsel even stated that he had no contact with them consequently; the bail application was dismissed on the grounds of misuse after the grant of interim pre-arrest bail, therefore, they are deemed ineligible for further bail. Furthermore, the claim that one of the applicants was hospitalized will be addressed by the learned trial Court.

9. The allegations against the applicants in the FIR are *prima facie* corroborated by the medico-legal reports of the victims. Injured Arbab Ali sustained three serious injuries: a laceration measuring 4 cm x 4 cm near his right eye, a 12 cm x 12 cm cut at the occipital region, and a 3 cm x 1 cm cut on

his left lower leg. Moreover, injured Irfan Ali and Usman each sustained two injuries.

10. In view of the above facts and circumstances, learned counsel for the applicants/accused has failed to make out the case for further inquiry as envisaged in subsection 2 of section 497 Cr.P.C. Consequently, instant criminal bail application is **dismissed** and the interim pre-arrest bail granted earlier vide order dated 06.09.2024 is hereby recalled.

11. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant on merits.

JUDGE

Abdullah Channa/PS