

**THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

Criminal Bail Application No.S-1082 of 2022.

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection.

For hearing of main case.

18.11.2022.

Mr. Ayaz Ali Gopang advocate for the applicants.

Applicants are present on ad-interim pre-arrest bail.

Mr. Muhammad Akram Sahito advocate a/w complainant.

Mr. Nazar Muhammad Memon, Addl. Prosecutor General.

ORDER

MUHAMMAD IQBAL KALHORO, J:- Parties do not see eye to eye with each other on matrimonial affairs. On the day of incident viz. 30.06.2022 complainant party was present in some festival and when they reached near otaq of Syed Imdad Shah, accused party duly armed with weapons accosted them and applicant Ashiq Hussan instigated other accused to assault complainant party and then he himself armed with a pistol fired at Rano, declared allegedly as 'Kaaro', having married with a girl of accused party, on his shoulder which caused a through & through injury, and co-accused Ali Dino, Dilbar and Illahi Bux @ Illahu armed with hatchets and danda respectively caused him multiple injuries. The Injured was referred to medical examination and then FIR was registered.

Learned defence counsel has argued that applicants are innocent; identity of applicants is doubtful because incident happened at 01:30 am; memo of arrest and place of incident does not show any blood stained earth was collected from the place of incident or there was a bulb available; there is delay of two days in registration of FIR and nothing has been recovered from applicants although they after getting ad-interim pre-arrest bail from the trial Court had joined investigation. He lastly prayed for bail, opposed by learned counsel for complainant and learned APG. They state that after this incident accused party again threatened complainant party to withdraw this case and therefore, a separate

FIR No.142/2022 at same PS u/s 506(ii), 337-H(ii), 34 PPC has been registered against them which shows that accused party is trying to settle score with complainant at any cost.

I have considered submissions of parties and perused material available on record. All the accused have been assigned specific role of assaulting PW Rano, causing him multiple injuries. They were all armed with respective weapons which is further verified from injuries caused through them on the person of injured who has sustained besides injuries caused to him by blunt side weapon, a fire arm injury which is through & through and is on upper part of his body i.e. narrow escape. Section 324 PPC prima facie is attracted therefore and applicants acting conjointly are not entitled to extra-ordinary concession of pre-arrest bail which is only meant for an accused who appears, per record, to be falsely implicated in the case, to save him from arrest in non-bailable offence, which is otherwise requirement of law. The grounds raised in defence require deeper appreciation of evidence which cannot be undertaken while deciding an application for pre-arrest bail in which more than merits, element of malafide is to be weighed to decide entitlement of accused to such relief. Accordingly this bail application is dismissed and ad-interim pre-arrest bail granted to them vide order dated 17.10.2022 is hereby recalled.

The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE