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

Cr. Bail Appn. No.S-56 of 2022

Miratulhaq Shah & another
Vs
The State

Applicants : Through Mr. Asif Ali Abdul Razak Soomro, Advocate.
(on interim bail)

State : Through Mr. Ali Anwar Kandho, Addl. Prosecutor
General.

Complainant : Through Mr. Abid Hussain Qadri, Advocate.
Pir Ahsan Shah

Date of hearing : 09.05.2022.

Date of Order : 09.05.2022.

O R D E R.

MUHAMMAD SALEEM JESSAR, J.- Applicants Miratulhaq Shah son of Miftahul Haq Shah and Manzoor son of Allah Rakho Bhatti seek pre-arrest bail in Crime No.54 of 2021, registered at Police Station Warisdino Machhi, for offence under Sections 395, 506/2, PPC, after their bail plea has been declined by the learned Additional Sessions Judge, Ratodero vide order dated 31.01.2022.

2. Learned Counsel for the applicants submits that all other co-accused have been bailed out by the trial court; however, allegation against the applicants is that they allegedly had taken the brief-case containing some important documents, whereas co-accused Manzoor son of Mohammad Idrees Bhambho, against whom it was alleged that he had allegedly taken away Rs.10,000/-, has been bailed out by the trial Court vide order dated 30.4.2022. In support, he submits copy of said order passed by the Additional Sessions Judge, Ratodero. He further submits that applicants are appearing before the trial Court and accusation against them is to be determined by trial Court after recording of evidence by the trial Court. He, therefore, prays for confirmation of interim pre-arrest bail already granted to the applicants.

3. Learned Addl. P.G. submits that co-accused Manzoor Ahmed Bhambho has been granted bail on same set of allegations.

therefore, case of applicants is at par with him, therefore, he has no objection for confirmation of interim pre-arrest bail.

4. Learned Counsel for the complainant opposes the bail application, on the grounds that applicants have misused the concession of interim pre-arrest bail extended to them by attempting to encroach upon the land belonging to the sister-in-law of the complainant situated at Tando Mohammad Khan, within the jurisdiction of P.S City Tando Mohammad Khan; however, no such complaint was filed against the applicants, instead an application was moved to SSP, Tando Mohammad Khan. He submits copies of such applications, which are taken on record. He, however, could not controvert the fact that all co-accused including Manzoor Bhambhro have been granted bail by the trial Court and the case of applicants is at par with them.

5. Heard arguments and perused the record.

6. No doubt the applicants are nominated in the FIR; however, after investigation they were let-off by the police and their names were kept in column No.2 of the challan. Such report under Section 173, Cr.P.C was filed, which was declined by the concerned Magistrate and they were arrayed as accused. When the I.O./prosecution itself had dented its own case, then the case against the applicants has become of two versions and which of the two versions is correct is a question which is yet to be determined by the trial Court after recording evidence of the prosecution witness. All co-accused have been bailed out by the trial Court and case of applicants is at par. Therefore, propriety of law demands that the applicants should also be extended same treatment. Reliance can be placed on the case of *Muhammad Ramzan v. Zafar Ullah & another (1986 SCMR 1380)*. Hence, I am of the considered view that the applicants have made out a good *prima facie* case for bail within the parameters of Section 497(2), Cr.P.C. Consequently, instant bail application is allowed. Interim pre-arrest bail already granted to the applicant is hereby confirmed on same terms and conditions.


JUDGE