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ORDER SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANO

Crl. Bail Appln. No.S-19 of 2024

Date _____
Order with signature of Judge _____

1. For orders on office objection.
2. For hearing of bail application.

26.02.2024.

Messrs Ashique Ali Jatoi and Naseer Ahmed Wagan, advocates along with applicants (on bail).

Mr. Ali Anwar Kandhro, Addl. P.G.

Mr. Suhendar Kumar Gemnani, advocate for the Complainant.

ORDER.

Muhammad Saleem Jessar, J.- Through this application, applicants Naimatullah son of Ghulam Mustafa and Mazhar son of Muharam Ali, both by caste Waka, seek their admission on pre-arrest bail in Crime No 112/2023, registered with Police Station Wagan, District Kamber-Shahdadkot, under Sections 324, 34, PPC. The applicants approached the Sessions Judge, Kamber-Shahdadkot, for seeking pre-arrest bail, which was declined vide order dated 10.01.2024. Hence, this application.

2. The facts of the prosecution case, are already mentioned in the FIR as well as bail application; hence, there is no need to reproduce the same hereunder.

3. Learned counsel for the applicant submits that the applicants have been implicated falsely in this case by the complainant party in the background of previous enmity over matrimonial affairs, which is admitted in the FIR. He further submits that there is delay of 03 days in lodging the FIR, for which no plausible explanation has been furnished by the prosecution. He next submits that per FIR mere presence of the applicants is shown at the relevant time and no overt act is assigned to them in the commission of alleged offence; hence, in the background of previous enmity between the parties and delay of 03 days in lodging the FIR, the case against the applicants requires further enquiry.

5. On the other hand, learned Addl. P.G., appearing for the State, does not oppose the bail application. However, the complainant present in person submits that the present applicant along with co-accused has attacked

upon his house inmates including women folks, therefore, is not entitled for concession of bail.

6. Heard learned counsel for the applicants, learned Addl. P.G. for the State as well as learned Counsel for the complainant and perused the available material.

7. From perusal of the FIR, the parties appear to be on inimical terms with each other over matrimonial dispute. There is delay of 03 days in lodgment of FIR. The role assigned to the applicants in the alleged incident is of mere presence and no active part in the commission of alleged offence is assigned to them. In the background of admitted enmity between the parties over matrimonial affairs, coupled with an inordinate and unexplained delay of 03 days in lodgment of FIR and no overt act assigned to the applicants, their case requires further enquiry within meaning subsection (2) to Section 497, Cr.P.C. Moreover, the case has been challaned and the applicants after grant of ad-interim pre-arrest bail and furnishing surety before this Court have joined the investigation as well as trial proceedings and no complaint with regard to the misuse of concession so extended to them has been brought on the record. In the wake of admitted enmity between the parties, the basic ingredients for grant of bail as laid down by learned Apex Court in the case of *Rana Muhammad Arshad v. The State* (PLD 2009 SC 427) are fully attracted in this case. Consequently, instant bail application is hereby allowed. Resultantly, the interim pre-arrest bail granted to applicants on 12.01.2024 is hereby confirmed on same terms and conditions.

