

ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANO

1st Cr. Bail Application No. S-41 of 2024

Applicants: Muhammad Jan Brohi and another, through Mr. Muhammad Ali Jagirani, Advocate.

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

Complainant: Ahmed Khan Yousafzai, SDO SEPCO Kamber, through Mr. Asif Hussain Chandio, Advocate.

Date of hearing : 11.03.2024

Date of Order : 11.03.2024

O R D E R.

Muhammad Saleem Jessar, J.- Applicants Muhammad Jan son of Abdul Ghaffar Brohi and Ayaz Ali son of Muharam Ali Mirjat, seek their admission on pre-arrest bail in Crime No.408/2023, registered at Police Station Kamber City, u/s 506/2, 504, 341, 353, 147, 148, after rejection of their plea by the learned Additional Sessions Judge-II, Kamber, vide order dated 18.12.2023.

2. Facts of the case of prosecution case are mentioned in detail in the impugned order as well as memo of bail application, therefore, same need not to be reproduced hereunder.

4. Learned counsel submitted that the applicants are innocent and they have been falsely implicated in this case by the SEPCO officials with malafide intention and ulterior motives. He submitted that all the sections applied in the FIR are bailable except Sections 506/2, PPC, punishment whereof does not exceed the prohibitory clause of Section 497, Cr.P.C. He also submitted that, the case against the applicants requires further enquiry within meaning of Sub-section (2) to Section 497, Cr.P.C; hence, prayed for confirmation of interim pre-arrest bail already granted to the applicants.

5. Learned Additional Prosecutor General appearing for the State, does not oppose the bail application, on the ground(s) that the alleged offence does not fall within prohibitory clause of Section 497, Cr.P.C.

6. Learned Counsel for the complainant though opposed the bail application; however, could not controvert the fact that the offence does not fall within prohibitory clause of Section 497, Cr.P.C.

7. Heard learned counsel for the applicants, learned Addl. P.G. for the State as well as learned Counsel for the complainant, and perused the record.

8. The offence with which the applicants have been charged, does not fall within prohibitory clause of Section 497, Cr.P.C inasmuch as all the sections applied in the FIR are bailable, except Section 506/2, PPC, which also carries maximum punishment of 07 years. The case has been challaned, which is now pending for trial before the Magistrate. In case after recording evidence the prosecution may succeed to prove the charge against the applicants, even then punishment of more than three years cannot be visualized. No complaint with regard to misuse the concession of interim pre-arrest bail by the applicants has been brought on record. In the circumstances and in view of dicta laid down by the learned Apex Court in the case of *Muhammad Tanveer v. The State* (PLD 2017 SC-733), case against the applicants requires further enquiry within the meaning of sub-section (2) of Section 497, Cr.P.C. Consequently, instant bail application is hereby allowed. Resultantly, interim pre-arrest bail earlier granted to the applicant vide order dated 22.01.2024 is hereby confirmed on same terms and conditions.

JUDGEMENT

→ Application D10 Martin

1) - Fx Order on MA 2387(m) (41A)
2) - R Order on MA 2388(m) (561-A)

→ Accomplish report as filing 'A'