

43

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

Cr. Bail Appln. No.S-216 of 2022

Muhammad Yaqoob Chahwan & another.
Vs
The State

Applicants present : Through Mr. Nizamuddin Abro, Advocate.
in person (on bail).

State : Through Mr. Imran Ali Abbasi, Asst. Prosecutor
General.

Date of hearing : 16.05.2022.

Date of Order : 16.05.2022.

ORDER.

MUHAMMAD SALEEM JESSAR, J.- Applicants Mohammad Yaqoob and Nazeer, both by caste Chahwan, seek their admission on pre-arrest bail in Crime No.15 of 2022, registered at Police Station Rehmatpur, Larkana, for offence under Sections 506/2, 337-F(v), 34, PPC, after their bail plea has been declined by the learned III-Additional Sessions Judge, Larkana vide order dated 21.03.2022.

2. According to the case of prosecution, on 17.2.2022, at 6.00 p.m. the applicants along with co-accused Ali Hassan and Imran, all by caste Chahwan, armed with pistol and lathies, waylaid complainant, his brother Bakhshal and son Mohammad Hassan and minor maternal grandson Arif Hussain, at the link road near Peer Murad Shah Graveyard, Taluka Bakrani and on the instigation of applicant Mohammad Yaqoob, accused Ali Hassan inflicted lathi blow to complainant, hitting minor Arif Hussain on his arm, while remaining accused slapped the complainant and PWs. Thereafter, the accused persons on being beseeched by PWs Bakhshal and Mohammad Hassan went away. The motive behind the alleged offence appears to be dispute over distribution of inherited property between the complainant and accused party, who are related *inter se*.

3. Process issued against complainant is returned unserved. It is taken on record.

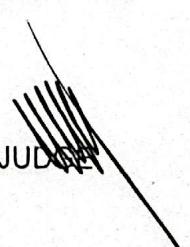
4. Learned Counsel for the applicants submits that the case against them is false and fabricated; besides, no specific role or any overt act is assigned to the applicants. He next submits that all the sections applied in the FIR are bailable except 506/2, PPC, for which maximum punishment provided by law is upto 07 years, as such, does not exceed the limits of prohibitory clause of Section 497, Cr.P.C., hence, the case against the applicants requires further inquiry.

5. Learned Asst. P.G. opposes the bail application. He; however, does not controvert the fact that the offence with which the applicants are charged, does not fall within the ambit of prohibitory clause of Section 497, Cr.P.C.

6. Heard. Perused the record.

7. Admittedly, all the offences applied in the FIR are bailable except section 506/2, PPC. The case is being tried by the Judicial Magistrate, where after recording evidence of prosecution witnesses, if prosecution may succeed to prove it's charge against the accused, even then punishment of more than 03 years cannot be visualized. As advanced, the parties are on strained relations over dispute of plot and the complainant has dragged the applicants under these proceedings only to exert illegal pressure upon them.

8. In the circumstances and in view of dicta laid down by the Hon'ble Supreme Court of Pakistan in the case of *Muhammad Tanveer v. The State* (PLD 2017 SC-733), the case against the applicants requires further inquiry within the meaning of subsection (2) to Section 497, Cr.P.C. Consequently, the interim pre-arrest bail already granted to the applicants on 25.4.2022 is hereby confirmed on same terms and conditions.


JUDGE