

ORDER SHEET**IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANO**

(23)

1st Cr. Bail Application No. S- 219 of 2022

Applicant(s): Majid and Irshad son of Saajan Mangankar
through Mr. Razi Khan Nabi Bux
R.Chandio, advocate.

The State: Through Mr. Ali Anwar Kandhro,
Additional Prosecutor General.

Complainant: Kaural Totani in person.

Date of hearing: 30.05.2022
Date of order: 30.05.2022

ORDER

Muhammad Saleem Jessar-J. Through this bail application, applicants Majid and Irshad seek their admission on pre-arrest bail in crime No.29/2022, registered at Police Station Waggan, for offence under sections 457 and 380 PPC.

2. The facts of the case are mentioned in FIR, copy whereof has been attached with the memo of bail application, hence need not to be reproduced here again.

3. Learned counsel for the applicants submits true copy of case diary issued by 2nd Civil Judge and Judicial Magistrate, Warrah (trial court) dated 27.4.2022 under the cover of his statement dated 30.5.2022, taken on record.

4. Learned counsel submits that FIR is delayed for about one month though distance between the police station and place of occurrence is about 3/4 furlongs. He next submits that offence is unseen and allegation against the applicants who are brothers inter-se is that they allegedly had taken away amount of Rs.50,000/- from the Almirah lying in the house. He further submits that offence with which the applicants have been charged does not exceed the limits of prohibitory clause of section 497 Cr.P.C and prayed for confirmation of bail. He further submits that co-accused Sajid has been granted post arrest bail by the trial court on 20.4.2022.

5. On the other hand learned Additional Prosecutor General appearing for the State, in view of above factual position does not oppose the bail application.



6. The complainant present in person submits that his counsel is out of station; however, he opposes the bail application.

7. Heard arguments of learned counsel for the applicants, complainant in person as well learned APG and perused the record.

8. Admittedly, the applicants and complainant are relatives inter-se and per averments of F.I.R the applicants allegedly had come to visit them and stayed over there for night when at about 3:00 am of the night they allegedly had stolen the cash amount and other incriminating articles from the Almira kept inside the house of complainant. It is very difficult to believe that the guests who are relatives of complainant had stayed in his house and subsequently, committed an offence as alleged however, the story put forth indicates that there must be an issue involving matrimonial dispute which constrained the complainant to drag the accused in a criminal case instead. The co-accused Sajid has been granted post arrest bail by the trial court on 20.4.2022 therefore, propriety of law demands that applicants may also be extended constant treatment. In case the applicants may be sent behind the bars tomorrow again they will be bailed out on the point of parity. Reliance can be placed on the case of *Muhammad Ramzan v. Zafar ullah and another (1986 SCMR 1380)*. Furthermore the offence with which the applicant have been charged carries maximum punishment up to seven years being tried by Judicial Magistrate, therefore, does not exceed the limit of prohibitory clause of section 497 Cr.PC. In these circumstances and in view of dictum laid down by Hon'ble Supreme Court of Pakistan in the case of *Muhammad Tanveer v. The State and another (PLD 2017 Supreme Court 733)*, instant application is hereby allowed. Interim pre arrest bail already granted to the applicants vide order dated 26.4.2022 is hereby confirmed on same terms and condition.

9. Since the applicants have already joined the trial proceedings therefore, are directed to continue their appearance before the trial court till final decision of main case. A copy of order may be communicated to trial court for compliance.

S Ashfaq/-

JUDGE