

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD

Criminal Bail Application No.S- 141 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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24.05.2019

Applicant present on interim pre-arrest bail.
Mr. Ishrat Ali Lohar, Advocate holds brief on behalf of Mr. Ghulam Shabir Shar, Advocate for applicant.
Mr. Poonjo Mal, Advocate for complainant.
Mr. Nazar Muhammad Memon, Additional Prosecutor General.

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Applicant seeks pre-arrest bail in Crime No.03/2019 of PS Kheemi Jo Par for offence u/s 337-A(iii), 337-F(i), 147, 148, 149, 504, 337-A(i), 337-L(ii) & 114 PPC.

The allegation against the applicant as set out in the FIR lodged against four other accused besides him is that he caused an iron rod injury on the head of PW Rawat which as per opinion of the Medicolegal Officer is Shajjah-i-hashimah, falling u/s 337-A(iii) PPC punishable for 10 years, whereas against remaining accused general allegations have been leveled.

It may be mentioned at the very outset that learned defence counsel had completed his arguments on 29.03.2019 taking a ground that final medical certificate of injured challenged by the applicant had been suspended by Medical Board. Thereafter, the case was being adjourned for want of medical certificate to be issued by the Medical Board where injured had appeared after coming to know of such challenge. On 17.05.2019, learned Additional Prosecutor General informed of having received the medical certificate from the Medical Board confirming the injury to victim Rawat as correct. But since learned defence counsel and counsel for the complainant were not present, the case was adjourned for today. Today, Mr. Ghulam Shabir Shar, learned defence counsel is not present and on his behalf Mr. Ishrat Ali Lohar, Advocate is holding brief and has made further submissions in favour of the applicant's case for pre-arrest bail. He has submitted that applicant is innocent and has falsely been implicated in this case; that rule of consistency is applicable in the case of applicant as co-accused have been granted bail; that guilt of applicant as well as the fact whether the applicant would be punished for a term of sentence in view of Section 337-N PPC is yet to be determined.

On the other hand, learned counsel for the complainant and learned Additional Prosecutor General have opposed the grant of bail to applicant on the ground that

specific role has been attributed to him and there is no malafide on the part of complainant to falsely implicate him.

I have considered submissions of the parties and perused the material available on record. Applicant has been assigned a specific role of causing injury to PW Rawat which has been opined by Medicolegal Officer as Shajjah-i-hashimah, falling u/s 337-A(iii) PPC, punishable for 10 years. His case is distinguishable to the case of co-accused who have been granted bail as against them only general allegation of causing injuries falling under bailable offence have been leveled. The grant of pre-arrest bail is an extra ordinary relief which is granted to an accused when he is hounded by police out of malafide and ulterior motives. In the present case, the applicant has not been able to show his implication by the complainant out of malafide or that he is being chased by police due to ulterior motives. This being the position, I am of the view that applicant is not entitled to extra ordinary relief of pre-arrest bail. Consequently, this bail application is dismissed and order dated 08.02.2019, whereby he was granted interim pre-arrest bail is hereby recalled.

JUDGE

Tufail/PA