

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

Criminal Bail Application No.S-756 of 2021.

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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For hearing of main case.

12.11.2021.

Mr. Chetan S. Kella advocate for the applicant.

Mr. Raees Yasir Ali Bhutto advocate for complainant.

Mr. Shahzad Saleem Nahiyoan, Additional Prosecutor General.

Complainant is present in person.

Applicant is present on interim pre-arrest bail.

**ORDER**

MUHAMMAD IQBAL KALHORO, J:- This FIR was registered on 16.07.2021 by complainant Mst. Marvi, who is present in the Court today, alleging that she was earlier Hindu and married to one Chanessar from whom she had three daughters and two sons and then she converted to Islam and married with Jumoon. However out of motherly love, on 12.07.2021 she went to see her children in Chanesar's house situated in Bihari Lal Brick kiln Umerkot where applicant alongwith others on account of her conversion to Islam caused hatchet blows on her head, and the other accused caused fists and kicks blows to her.

Learned defence counsel submits that the applicant is innocent, was not present at the place of incident on the day of incident but was attending his shop situated in Gulistan-e-Johar Karachi; there is delay in FIR; that complainant has been used by his rivals with whom he has got a dispute over plot; that medical certificate has been challenged.

On the other hand learned counsel for complainant and learned APG have opposed bail to the applicants stating that the injury is not self-suffered and is grievous one punishable for ten years has caused fracture and dislocation of skull of the victim which could have been proved fatal.

I have heard submissions of parties and perused the record including medical evidence. While deciding pre-arrest bail application only tentative assessment is to be made and tentative assessment of the material shows connection of the applicant with the offence. He has been nominated in the FIR specifically by the complainant with whom prima facie he has no

enmity and she has no ill-will against him to substitute him with the real culprit responsible for causing her as serious an injury as the one under Section 337-A(iv) punishable for 10 years. Learned APG further submits that narration of the complainant is supported by 161 Cr.P.C. statements of the witnesses who have also implicated the applicant of causing injury to the victim. Learned defence counsel although has taken the plea of Alibi and submitted that applicant was present in his shop situated at Gulistan-e-Johar Karachi. But he has admitted that such evidence is not part of the prosecution case and although he has a proof in the shape of video recorded by CCTV camera about his presence at Karachi but he was not able to make it part of investigation. Such state of affairs means that his story has not been examined in investigation and no report of the I.O. in this regard is available. At the most, now it could be considered his defence which however cannot be taken into account while deciding his right to pre-arrest bail which is to be determined on the basis of material available on record.

Having considered all these facts, I am of the view that applicant has not been able to establish his right to the extra-ordinary concession of pre-arrest bail on account of prima facie direct evidence against him. Accordingly, this bail application is dismissed and ad-interim pre-arrest bail granted to the applicant vide order 02.09.2021 is hereby recalled.

The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

**JUDGE**

Irfan Ali