

ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Crl. Bail Appln. No. S- 21 of 2019.

Date of hearing	Order with signature of Judge
01.02.2019.	

1. For orders on office objections.
2. For hearing of bail application.

Mr. Khadim Hussain Khoso, Advocate for applicant alongwith applicant.

Mr. Aitbar Ali Bullo, Deputy Prosecutor General.

Muhammad Saleem Jessar, J- Through this bail application, the applicant Abdul Latif alias Latif seeks pre-arrest bail in Crime No.218 of 2018, registered with P.S Kashmore, District Kashmore @ Kandhkot, for offences punishable under Sections 337-A (i), 337-F (i), 337-F (v), 504, 403, 506 (2), 147, 148 and 149 P.P.C.

The bail application moved by the applicant before the Court of learned Sessions Judge, Kashmore @ Kandhkot, was declined by learned 1st Additional Sessions Judge, Kandhkot, vide Order dated 21.12.2018.

Per F.I.R, the allegation against applicant is that on 09.12.2018, he in company of other co-accused caused "lathi" blow to complainant on finger and neck, whereas co-accused persons have been assigned the role of causing lathi injuries to witnesses. The motive for the alleged incident, as set out in the F.I.R is dispute between the parties over crossing from the way.

Learned counsel for applicant mainly contended that, the FIR is delayed for five days; that malafides on the part of complainant are very much clear from the fact, that he has roped the accused from one and same family; that according to F.I.R the applicant has been assigned role of causing lathi blows to complainant; that co-accused Abdul Rasheed alias Rasheed and Muhammad Ali alias Nandho have been granted pre arrest bail by same learned Judge through same impugned order, though, case of co-accused Abdul Rasheed alias Rasheed is mostly on same

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footings. Learned counsel further contended that, the sections applied in the F.I.R do not fall within prohibitory clause of Section 497 Cr.P.C. In support of his contention, learned counsel has relied upon case of *Muhammad Tanveer v. The State and another* (PLD 2017 Supreme Court 733), *Riaz Hussain and others versus The State and others* (2014 YLR 1120 Lahore).

Learned A.P.G. appearing for the State opposed grant of bail in favor of the applicant on the ground that he has been nominated in F.I.R with specific role of causing lathi injuries to complainant.

Perusal of record shows that, the parties are already having grudge against each other over matter of road cross; that the F.I.R is also delayed one and the sections applied in the F.I.R do not fall within prohibitory clause of Section 497 Cr.P.C. In the cases not falling within prohibitory clause of Section 497 Cr.P.C., the grant of bail is rule and refusal is an exception, as has been held by the Hon'ble Apex Court in its numerous judgments time and again.

Moreover, co-accused Abdul Rasheed alias Rasheed has been admitted to bail by the learned trial Court and case of present applicant appears to be mostly on same footings, therefore, rule of consistency is applicable to the case of present applicant. The applicant has already joined the trial.

Accordingly, in view of above position and the dictum laid down by Hon'ble Supreme Court in case of *Tariq Bashir v. The State* (PLD 1995 S.C 34) and *Muhammad Tanveer v. The State and another* (PLD 2017 Supreme Court 733), the instant application stands allowed. Consequently, interim pre-arrest bail already granted to applicant vide Order dated 11.01.2019 is hereby confirmed on same terms and conditions.


JUDGE

Ausani/*