

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

Cr. Bail Application No.S-881 of 2016.

DATE	ORDER WITH SIGNATURE OF JUDGE
<u>25.09.2017.</u>	<p style="text-align: center;">For hearing.</p> <p style="text-align: center;">Mr. Muhammad Ahmed Khan, Advocate alongwith applicant. Syed Meeral Shah Bukhari, Addl: P.G for the State. None present for the complainant.</p> <p style="text-align: center;">===</p> <p><u><i>ABDUL MAALIK GADDI,J-</i></u> Applicant/accused is present on interim pre-arrest bail granted to him by this Court vide order dated 20.10.2016. Today this bail application is fixed for confirmation or otherwise.</p> <p>2. The allegation against the applicant/accused is that on the date and time of the incident, the present applicant/accused alongwith other accused were armed with Danda, while accused Bilal was armed with iron rod. It is alleged that present applicant/accused though armed with Danda, but caused bricks blow to the husband of the complainant namely Javeed Iqbal.</p> <p>3. It is stated by the learned counsel for applicant that case against the applicant is false and has been registered due to enmity. He further submits that incident took place on 11.2.2016, whereas, the F.I.R. has been registered on 25.3.2016 after delay of about 42 days, for which, no satisfactory explanation has been furnished. He further submits that co-accused though who were armed with iron rod and `Danda` were granted bail by the trial Court and the case of present applicant is on almost same facts, therefore, according to him, this applicant/accused is also entitled for the same treatment.</p> <p>4. Learned Addl: P.G. for the State has opposed this bail application on the ground that name of present applicant/accused is appearing in the F.I.R with specific role that at the time of incident applicant/accused caused brick blow on the head of husband of the complainant namely Javeed Iqbal and the injury attributed to the present applicant/accused is non-bailable.</p>

5. I have given my anxious thoughts to the contention raised at the bar and have gone through the police papers so available before me.

6. It is an admitted fact that incident took place on 11.2.2016, whereas F.I.R. was lodged by complainant on 25.3.2016 after delay of about 42 days, for which, no plausible explanation has been furnished, therefore, on this ground alone, false implication of the applicant/accused cannot be ruled out and this aspect of the case will be considered by the trial Court at the time of trial whether the applicant/accused caused `iron rod` or `brick` blow to the husband of the complainant or otherwise, hence it requires evidence. Complainant is not the eye-witness of the incident/case and the F.I.R. has been registered on the basis of hearsay evidence. Co-accused Bilal, Danish, Shoukat Ali and Qadeer Ahmed have already been granted bail by the trial Court although the case of present applicant/accused is on same facts, therefore, tentatively this applicant/accused is also entitled for same treatment. It may be mentioned here that as per medico legal report, the injury attributed to the present applicant/accused falls within the ambit of section 337-A(ii), PPC though the offence is non-bailable, but the punishment of this section does not fall within prohibitory clause of section 497, Cr.P.C. It is stated by the applicant that he is regularly attending the trial Court and there is nothing on record with regard to the misuse of the interim bail. Under these circumstances, I have come to this conclusion that applicants/accused has made out a case for confirmation of interim pre-arrest bail at this stage. I, accordingly, confirm the interim pre-arrest bail already granted to the applicant vide order dated 20.10.2016 on the same terms and conditions with direction to the applicant to appear before the trial Court and face the trial.

7. Needless to mention here that the observations made herein above are tentative in nature and shall not affect the merits of the case.

The bail application stands disposed of in the above terms.

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JUDGE.