

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. B.A. No.S- 344 of 2020

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| DATE | ORDER WITH SIGNATURE OF JUDGE(S) |
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- 1. For orders on office objection.
- 2. For hearing of main case.

07.09.2020

Applicant is present on interim pre-arrest bail.

Mr. Aijaz Shaikh, Advocate files Vakalatnama on behalf of the applicant, which is taken on record.

Ms. Rameshan Oad, A.P.G.

Complainant Pehalwan is present in person. (His CNIC bearing No.45402-1906811-9 seen and returned).

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ABDUL MAALIK GADDI, J.-Through this bail application, the applicant seeks pre-arrest bail in Crime No.62 of 2020, registered at Police Station Qasimabad, under sections 147, 148, 149, 34, 506(2), 337-A(i), 337-F(i) and 504.

- 2. It is noted that the applicant in present application is on interim pre-arrest bail granted to him by this Court vide order dated 20.04.2020 and today the bail application is fixed for conformation or otherwise.
- 3. As per F.I.R, the allegation against the Applicant is that on 24.02.2020 at about 1800 hours, the applicant alongwith his accomplices duly armed with iron rod and other deadly weapons came at the place of incident and attacked upon P.W Naqeebullah, who, as a result of said assault, received injuries on his head.
- 4. Learned counsel for the applicant submits that he is innocent; that the F.I.R. is false and fabricated and he has falsely been implicated in this case; that the alleged incident took place on 24.02.2020 whereas the F.I.R. was registered on 20.03.2020 with an unexplained delay of 25 days, therefore, false implication of the applicant in this case cannot be ruled; that as per Medico-

Legal Certificate issued by the Medico-Legal Officer the injuries allegedly received by P.W Naqeebullah on his head have been declared under sections 337-A(i) and 337-F(i) PPC and as per Statute punishment provided for same is 2 years, respectively, hence the case of the applicant does not fall within the prohibitory clause of section 497 Cr.P.C; that co-accused in this have already been granted bail by the trial Court, therefore, the applicant is also entitled for the same treatment. Under these circumstances, he prays for confirmation of interim pre-arrest bail already granted to the applicant.

5. Complainant Pehalwan present in Court has submitted that he has P.W Naqeebullah have compounded the offence with the applicant outside the Court, therefore, he has no objection if the interim pre-arrest bail already granted to the applicant is confirmed.

6. Learned A.P.G in view the facts and circumstances of the cases as well as no objection extended by the complainant, has also given no objection to the confirmation of interim pre-arrest bail of the applicant.

7. Arguments heard and record perused.

8. It is noted that case has been challaned and present applicant is no more required for investigation purpose. It is also noted that the alleged incident took place on 24.02.2020 whereas instant F.I.R. was registered on 20.03.2020 with a long unexplained delay of 25 days, therefore, false implication with due deliberation of the applicant in this case cannot be ruled out. Besides, this, as peer medical certificate issued by the Medico-Legal Officer in respect of the injuries allegedly received by P.W Naqeebullah on his head have been declared under sections 337-A(i) and 337-F(i) PPC and the punishment provided for same is 02 years each, respectively; thus, it appears that case of the applicant does not fall within the prohibitory clause of section 497 Cr.P.C; that there is nothing on record that the applicant is previous convict. It is further noted that the co-accused who are seven in number were also present alongwith the applicant at the time of alleged incident duly

armed with iron rod and other deadly weapons, have been granted bail by the trial Court vide order dated 14.04.2020. Complainant Pehalwan present in Court, submits that he and injured / P.W Naqeebullah have amicably settled their dispute with the applicant outside the court and at the moment he has no grievance against the applicant / accused and he has no objection if the interim pre-arrest bail earlier granted to the applicant is confirmed.

9. In view of above, I feel no hesitation to allow this application; resultantly, the interim pre-arrest bail earlier granted to the applicant, vide orders dated 20.04.2020 is hereby confirmed on same terms and conditions. However, since this is a injured case, therefore, the trial Court is directed to proceed with the case expeditiously and decide the same preferably within a period of 60 working days from the receipt of this order and shall ensure that no un-necessary adjournment is granted to either party.

10. It is made clear that during trial if the applicant misuses the concession of pre-arrest bail, the trial Court would be competent to take necessary action against him without making any reference to this Court, in accordance with law.

11. Needless to mention that the observations made hereinabove are tentative in nature and the trial Court shall not be influenced upon by any of them while proceeding with and deciding the case on merits.

12. Bail application stands disposed of alongwith pending applicant(s).

JUDGE

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