

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Bail Application No.986 of 2021

<i>Date</i>	<i>Order with signature of Judge</i>
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For hearing of Bail Application.

11.08.2021

Mr. Irshad Ali Shar, Advocate along with Applicant (on bail).
Ms. Rahat Ehsan, Addl. Prosecutor General, Sindh.

ORDER

Muhammad Saleem Jessar, J:- Through this application, applicant Abdullah Sethar son of Abdul Raheem, seeks his admission on pre-arrest bail in Crime No.283/2017 of Police Station Shah Latif Town, Karachi, under Section 147/148/149/504/337-F(vi) PPC. The bail plea preferred by the applicant before first forum was declined by means of order dated 31.05.2021, hence this bail application.

Since the facts of the prosecution case are already mentioned in the impugned order as well as FIR, which are annexed with Court file, therefore, there is no need to reproduce the same.

The complainant, despite of notice, has chosen to remain absent.

Learned counsel for the applicant submits that the case has been challaned by the police, which is now pending for trial before the Court of Judicial Magistrate-IV, Malir Karachi. He further submits that applicant has not misused the concession extended to him; besides, the punishment provided by law for the sections applied in the FIR are not falling beyond the scope of prohibitory clause of section 497 Cr.P.C; hence, prays for confirmation of bail to the accused.

On the other hand, learned Addl. P.G, Sindh appearing for the State, opposes the bail application on the ground of specific role of causing danda blow to the injured; however, she could not controvert the fact that the injury allegedly sustained by the injured was on his non-vital part of the body and has not been declared by the Medico Legal Officer to be detrimental to his life. She; however, submits that accused remained fugitive from the law since 2017, therefore, is not entitle for the bail.

Heard arguments and perused record. The FIR is delayed for about three days and role attributed to accused is that he allegedly caused danda blow to the injured which landed on his right arm which is non-vital part of his body. The injury has been opined by the Medico Legal Officer to be punishable under section 337-F(vi) PPC and carries maximum punishment upto 7 years, therefore, does not exceed limits of prohibitory clause of section 497 Cr.P.C. As far as, contention of learned Addl. P.G, Sindh that applicant remained fugitive from the law for a noticeable period, is concerned, accused as and when learned about pendency of instant case against him, has rushed to the Court of Sessions for seeking anticipatory bail and on refusal he filed instant bail application, therefore, intention of accused is to be considered which does not show that he had any wrong intention to abscond away. Reliance can be placed from the case of *MITHO PITAFAI Versus The STATE (2009 SCMR 299)*.

Since the punishment provided by the law does not exceed limits of prohibitory clause of section 497 Cr.P.C, hence, by placing reliance upon the case of *MUHAMMAD TANVEER Versus The STATE and another (PLD 2017 SC 733)*, I am inclined to grant instant bail application. Consequently, instant bail application is hereby allowed; interim bail granted earlier to applicant **Abdullah Sethar son of Abdul Raheem** on 03.06.2021 is hereby confirmed on same terms and conditions.

Before parting with this order; however, it is clarified that the reasoning given in this order are tentative in nature and will have no effect whatsoever in any manner upon the merits of the case.

Applicant present before the Court is directed to continue his appearance before the trial Court without negligence and in case he may misuse the concession or may temper with the prosecution's evidence then

the trial Court is competent to take legal action against him as well to his surety in terms of Section 514 Cr.PC. Trial Court is also hereby directed to make necessary arrangements for securing attendance of the prosecution witnesses and conclude the trial within shortest possible time under intimation to this Court through MIT-II.

Let copy of this Order be communicated to trial Court through learned Sessions Judge, concerned. Learned MIT-II to ensure compliance.

JUDGE

Zulfiqar/P.A