

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

**Criminal Bail Application No. 1161 of 2021**

Date	Order with signature of Judge
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For hearing of bail application :

**12.11.2021 :**

Mr. Liaquat Ali Hamid Meyo, advocate for the applicant / accused  
a/w applicant / accused Muhammad Waleed.

Complainant Abdul Rasheed (CNIC No.42201-5420990-5),  
present in person.

Mr. Saleem Akhtar, Addl. P.G. a/w ASI Anwar Meo of P.S. Zaman Town.

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**NADEEM AKHTAR, J.** – Through this bail application under Section 498 Cr.P.C., the applicant has sought admission to bail pending trial in Crime No.121/2021 registered on 13.02.2021 against him and two others at P.S. Zaman Town Korangi Karachi under Sections 337-F(vi) and 34 PPC. Vide order dated 08.07.2021, interim bail before arrest was granted to the applicant subject to his furnishing solvent surety in the sum of Rs.50,000.00 and a P.R. bond for the same amount to the satisfaction of the Nazir of this Court.

2. According to the subject FIR lodged by the complainant Abdul Rasheed, on the day of the incident he went to the house of his in-laws to meet his wife and children and to pay their maintenance, when his brother-in-law Muhammad Waleed (present applicant) and two unknown persons attacked and injured him. According to the complainant, he suffered an injury on his leg and also suffered some internal injuries. Upon registration of the subject FIR by the complainant, interim pre-arrest bail was granted to the present applicant / accused by the learned Additional Sessions Judge-III Karachi East vide order dated 16.02.2021 passed in Pre-Arrest Bail Application No.1382/2021. However, vide order dated 30.03.2021 the aforesaid bail application filed by the applicant was dismissed by the learned Additional Sessions Judge.

3. It is contended by learned counsel for the applicant that the applicant has been falsely implicated in this case by the complainant due to enmity on account of family dispute ; the element of enmity can be gauged from a bare perusal of the FIR itself ; the injury allegedly caused to the complainant falls within the definition of *Munaqqilah* which offence does not fall within the prohibitory clause of Section 497 P.P.C. ; there is an apparent malafide on the part of the complainant and police ; the applicant does not have any previous

criminal record ; and, the applicant has already joined the trial and is regularly attending the case before the trial Court.

4. The complainant, who is present in person, as well as the learned Addl. P.G. have reiterated the contents of the FIR and have prayed for the dismissal of this bail application. Additionally, learned Addl. P.G. submits that the offence is non-bailable and a specific role in respect thereof has been assigned in the F.I.R. to the applicant.

5. I have heard learned counsel for the applicant, learned Addl. P.G. and the complainant, and have also examined the material available on record. It is an admitted position that three persons were nominated in the F.I.R., one of whom was the present applicant and the two others were not identified. Since it was alleged in the F.I.R. that the complainant was attacked and injured by all the said three said persons, the role assigned to them was the same. It is not the case of the prosecution that the complainant was injured only by the applicant. Therefore, the question whether the injury allegedly suffered by the complainant was caused by the applicant alone or collectively by all the alleged attackers, requires further inquiry in my opinion. Prima facie, there appears to be a family dispute between the parties as the wife and children of the complainant were living at the house of the applicant at the time of the alleged incident. Moreover, the offence alleged against the applicant does not fall within the prohibitory clause of Section 497 Cr.P.C., and there was also a delay of ten (10) in lodging the F.I.R. Accordingly, the principle that the grant of bail in such offences is a rule and refusal an exception, authoritatively and consistently enunciated by the Hon'ble Supreme Court, is attracted in the instant case.

6. According to the progress report dated 12.11.2021 filed by the learned Addl. P.G., the investigation in the case has been completed and the charge was framed on 01.10.2021, and now the case is fixed on 23.11.2021 for evidence. Therefore, the applicant shall not be required for any further investigation, and there is no question or probability that the evidence will be tampered with by him or that the prosecution witnesses will be influenced by him if he is enlarged on bail. The guilt or innocence of the applicant is yet to be established as it would depend on the strength and quality of the evidence that will be produced by the prosecution and the defense before the trial Court. It is clarified that the observations made herein are tentative in nature which shall not prejudice the case of either party nor shall they influence the learned trial Court in any manner in deciding the case strictly on merits in accordance with law.

7. In view of the above, the applicant / accused has made out a case for the grant of bail. Accordingly, the interim pre-arrest bail granted to him vide order dated 08.07.2021 is hereby confirmed on the same terms and conditions.

This bail application is allowed in the above terms.

J U D G E