

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

Criminal Bail Application No.S-353 of 2021

Applicant : Abu Bakar Son of Kamil, through Mr. Om Parkash H. Karmani, Advocate.
Respondent : The State through Ms. Rameshan Assistant Prosecutor General, Sindh.
Complainant : Complainant Anoo Son of Waryam through Mr. Imtiaz Ali Sammon, Advocate.
Date of hearing : 08.11.2021
Date of Order : 08.11.2021

O R D E R

AMJAD ALI SAHITO, J:- Through the instant bail application, the applicant/accused above named seeks his pre-arrest bail in Crime No.09 of 2021, under sections 324, 114, 337-A(iv), 337-A(ii), 337-F(i), 504, 34 P.P.C, registered at P.S Talhi, after his bail plea was declined by the learned Sessions Judge, Umkerkot, vide order dated 30.04.2021.

2. The details and particulars of the F.I.R. are already available in the bail application and F.I.R., same could be gathered from the copy of F.I.R. attached with such application, hence needs not to reproduce the same hereunder.

3. Mr. Om Parkash H. Karmani, Advocate files Vakalatnama on behalf of applicant taken on record. He argued on behalf of applicant that the applicant/accused is innocent and has falsely been implicated in this case; that F.I.R is delayed about one month and 17 days and no plausible explanation has been furnished by the complainant but after obtaining false medical certificate from the medico-legal officer lodged instant F.I.R; that the complainant himself admits in his F.I.R that there is dispute for money transaction between him and the applicant and case has already been challaned before competent forum and trial has commenced. He lastly prayed for confirmation of interim pre-arrest bail.

4. On the other hand learned counsel for the complainant as well as learned Assistant Prosecutor General, Sindh vehemently opposed for grant of interim pre-arrest bail and submit that delay has been properly explained as after receiving medical certificate the complainant lodged F.I.R however they admit that at the time of incident no N.C report was kept by the complainant at Police Station.

5. I have heard learned counsel for the applicant, the learned counsel for the complainant as well as Assistant Prosecutor General, Sindh and gone through the record available.

6. From perusal of record it reflects that the case has already been challaned therefore the person of applicant is no more required for investigation. The Court has been informed that trial has commenced and some of the witnesses have been examined as such at this stage to pass any observation may prejudice the case of either party. I am fortified with the case law reported as *NADIR alias NADIR ALI Vs. The STATE [2018 P. Cr L J NOTE 225]*, wherein this Court observed in the following manner:-

“The evidence of almost all the prosecution witnesses has been recorded by the trial Court and the investigating officer of the case remains to be examined. It is also not controverted that after grant of interim pre-arrest bail the applicant has ever misused the concession of bail.

7. The case of the applicant covers the above fact so also learned counsel for the applicant has pleaded malafide on the part of the complainant that due to money transaction the applicant has been involved in this case. At bail stage only tentative assessment is to be made.

8. In view of above, the case of the applicant/accused falls within the ambit of sub-section (2) of section 497 Cr.P.C and learned counsel for the applicant/accused has pleaded malafide on the part of the complainant for his false implication in this case which cannot be ruled out, therefore, the bail application is allowed. Consequently, the interim pre-arrest bail granted to the applicant/accused by this Court vide Order dated 04.05.2021, is hereby confirmed on the same terms and conditions however the learned Trial Court is directed to proceed with the matter on day to day basis by not granting adjournment on flimsy grounds and conclude the case within sixty (60) days after receipt of copy of this order. The applicant/accused is too directed to attend the learned Trial Court regularly if he fails to appear the Trial Court would be at liberty to take actions against him in accordance with law.

9. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of the applicant on merits.

JUDGE