

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

Criminal Bail Application No.S-897 of 2021

Applicant : Aijaz Ali Son of Wali Dino, through Syed Shahzad Ali Shah,
Advocate.

Respondent : The State
Through Mr. Nazar Muhammad Memon, Additional Prosecutor
General, Sindh.

Date of hearing : **01.11.2021**
Date of Order : **01.11.2021**

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.110 of 2021, under sections 337-A(i), 337-A(ii), 504, 34 P.P.C, registered at P.S Sanghar, after his bail plea was declined by the learned Additional Sessions Judge-II, Sanghar, vide order dated 10.09.2021.

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. Learned counsel for the applicant/accused submits that the injury received by injured Mst. Sara declared by Medical Officer 337-A(ii) P.P.C its maximum punishment provided in law is 5 years; that the applicant/accused regularly attending the Trial Court and he is not required for further investigation. He lastly prayed for confirmation of interim pre-arrest bail.

4. On the other hand learned Additional Prosecutor General, Sindh highly opposed for confirmation of interim pre-arrest bail.

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

6. Perusal of record reflects that on the day of incident the applicant/accused entered in the street situated in front of complainant's house abused complainant party and inflicted handle of his hatchet to Mst. Sara on her head resultantly she become injured and as per Medical Certificate she received injury 337-A(ii) P.P.C which is punishable upto five years and the said injury is on her vital part of the body. The ocular evidence finds support from medical evidence. The prosecution witnesses in their 161 Cr.P.C

statements have supported the version of the complainant. Learned counsel for the applicant failed to point out any ill-will, enmity or malafide ulterior motives on the part of the complainant or IO of the case which is the requirement for grant of pre-arrest bail. In this regard, I am fortified with the case law reported as [2019 S C M R 1129] wherein the Hon'ble Supreme Court of Pakistan has held as under:

“Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation..... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law.”

7. At bail stage only tentative assessment is to be made. Sufficient material is available on the record, which connect the applicant with the commission of alleged offence. In view of above discussion, the applicant/accused has failed to make out a good case for confirmation of interim pre-arrest bail. Consequently, the bail application is dismissed and the interim pre-arrest bail earlier granted to the applicant/accused vide order dated 08.10.2021 is hereby re-called.

8. 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 applicants on merits.

JUDGE