

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Crl. Bail Application No. 1391 of 2019

Date	Order with signature of Judge
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For hearing of bail application

October, 2019

Mr. Nadeem Shahzad Hashmi, Advocate for applicant.
Mr. Zahoor Shah, DPG for the State.
Mrs. Humera Junaid, Advocate for complainant.

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The applicants are accused in F.I.R. No. 222 of 2019 registered under sections 452, 354 and 337-A(i) of the P.P.C at the Peerabad police station. Their pre-arrest bail application was dismissed by the learned IVth Additional Sessions Judge, Karachi West on account of non-prosecution on 27-9-2019. Through this application they have sought pre-arrest bail from this court.

2. Facts relevant for the case are that the aforementioned F.I.R. was registered on 27-8-2019 on the complaint of one Chand Bibi. She recorded that accused Mohammadullah and Mohammad Umer are both sons of Mohammad Nabi and that they along with their families are her neighbours. On 21-8-2019 Mohammadullah and Mohammad Umer both entered her house, manhandled her and tore her clothes. It was only after she raised hue and cry that the neighbourhood people came and the accused ran away.

3. I have heard the learned counsel for the applicants as well as the learned D.P.G who was assisted by the learned counsel for the complainant and gone through the record. Our observations are as follows:

1. The incident is said to have occurred on 21-8-2019. No explanation of any sort has been offered as to the 7 day delay in filing the F.I.R. Further still, the medical reports shown to us by the complainant's counsel reflect that it was on 30.8.2019 that Chand Bibi got herself examined by doctor in Abbasi Shaheed Hospital i.e. after the registration of the F.I.R. The medical report appears to show that no mark of injury was seen.

2. There is no independent witness cited even though it was claimed by the complainant in the F.I.R. that the neighbourhood people had gathered and it was only because of them that the accused ran away. The only two witnesses to the alleged assault are the sister of the complainant and one rickshaw driver who is said to be the friend of the sister. I find it quite amazing that such an incident took place while the accused and their families reside next door yet none from the neighbourhood gave a statement nor did the investigating officer of the case even bother to investigate.
 3. The allegedly torn clothes were never seized by the police after the incident. The father of the two accused, Mohammad Nabi, was included as an accused in the case even though he appears to have nothing to do with it.
 4. Malafide on the part of the complainant and the police can be inferred at this stage from the above. Of course, it is only the learned trial court that can give a conclusive finding after evidence is recorded at trial.
 5. Co-accused Mohammad Umar has been granted bail by the learned trial court.
 6. The case of the accused is one of further inquiry.
4. Above are the reasons for my short order dated 21.10.2019 which was as follows:

“For reasons to be recorded later on, the interim bail granted to the applicants vide order dated 30.9.2019 is confirmed on the same terms.”

JUDGE