

**IN THE HIGH COURT OF SINDH, BENCH AT
SUKKUR.**

Crl. Bail Application No. S- 358/2022.

Date of hearing	Order with signature of Judge
-----------------	-------------------------------

1. For orders on office objection at Flag 'A'.
2. For hearing of bail application.

O R D E R.
28.11.2022.

Mr. Jamal Abdul Nasir, Advocate for Applicant.

Syed Sardar Ali Shah, Additional Prosecutor
General.

NAIMATULLAH PHULPOTO J., Through this order, I intend to dispose of pre-arrest bail application filed on behalf of applicant/accused Ghulam Abbass in crime No. 79/2021, for offences under sections 337-A(i), 337-F(i), 337-F(v), 452, 504, 506/2, 427, 147, 148, 149 PPC registered at police Station Sangi, District Sukkur. Prior to this, applicant applied for pre-arrest bail before learned Additional Sessions Judge-V, Sukkur, however, prayer for pre-arrest bail was dismissed vide order dated 12.03.2022, hence, he has filed instant pre-arrest bail application.

2. Mr. Jamal Nasir Bullo, learned advocate for applicant contended that applicant has been falsely involved in this case. It is further submitted that soon after the incident complainant Nizamuddin approached SHO Police Station Sangi for registration of FIR and injured boy was referred to hospital but in entry No. 13 maintained at Police

Station, name of applicant Ghulam Abbass did not transpire. It is further submitted that case was investigated and disposed of in 'C' class during first investigation; that there is civil litigation between the parties and injury attributed to applicant was on left arm of PW Ghulam Hussain, the non-vital part of body. It is also submitted that alleged offences do not fall under prohibitory clause of Section 497 Cr.P.C, therefore, applicant is entitled for pre-arrest bail. Lastly argued that applicant is old of 70 years. In support of his contentions, he has placed reliance upon the case reported as 2005 MLD 1267 (Nooruddin and another v. The State).

3. On the other hand, learned Additional Prosecutor General opposed the pre-arrest bail application on the ground that applicant is specifically nominated in FIR and it is alleged that he had caused lathi injury to PW Ghulam Hussain. It is submitted that applicant does not deserve the concession of pre-arrest bail in this case.

4. I have heard learned counsel for applicant / accused, learned Additional Prosecutor General and perused the record. I am inclined to confirm pre-arrest bail of applicant for the reason that injury attributed to applicant is on non-vital part of body of injured Ghulam Hussain. Alleged offences do not fall under prohibitory clause of Section 497 Cr.P.C. As regards to mala fide, it is stated that civil litigation is pending between the parties. It is also argued that applicant / accused is aged about 70 years. As regards to the ingredients for grant of pre-arrest bail are concerned, in the case of Javed Iqbal v. The State through Prosecutor General of Punjab and another (2022 SCMR 1424) it is held that while granting extraordinary relief of pre-arrest bail, merits of the case can be touched upon.

5. Keeping in view of the facts and circumstances, prima facie, there are no reasonable grounds for believing that applicant Ghulam Abbass has committed the alleged offences but there are sufficient grounds for further inquiry into his guilt. Alleged offence does not fall within the prohibitory clause of Section 497 Cr.P.C. Interim pre-arrest bail earlier granted to the applicant / accused Ghulam Abbass vide order dated 25.07.2022 is hereby confirmed on same terms and conditions.

6. The aforesaid bail application stands disposed of in the above terms.

J U D G E

Irfan/P.A