

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail Application No.S- 1095 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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11.11.2022.

Syed Tarique Ahmed Shah, Advocate for applicant
alongwith applicant (on bail).

Ms. Sana Memon, A.P.G for State alongwith IO/ASI
Rabdino Shah Bukhari PS Khoski.

ORDER

Muhammad Saleem Jessar, J.- Complainant / injured was present on 03.11.2022 and stated that he has no means to engage counsel on his behalf; however, has shown trust upon the prosecution.

2. Through instant application, applicant Shahid Hussain seeks his admission on pre-arrest bail in Crime No.51 of 2022 registered at P.S Khoski under Sections 337-F(vi), 337-F(iii), 337-F(i), 504 PPC.

3. After registration of case, the investigation was assigned to IO / ASI Rabdino Shah Bukhari of PS Khoski, who after completion of legal formalities submitted interim challan before the Court of Civil Judge & Judicial Magistrate, Badin. Applicant preferred Criminal Bail Application No.1463 of 2022 before the Court of Sessions, wherefrom it was assigned to 2nd Additional Sessions Judge, Badin, where after hearing the parties, request for bail was turned down through order dated 27.09.2022 hence this bail application.

4. The facts of case are already mentioned in FIR as well as in memo of bail application hence need not be reiterated.

5. Learned counsel for applicant submits that FIR is delayed for about 24 days and the injuries allegedly sustained by injured / complainant are on non-vital parts of his body besides carries maximum punishment upto 07 years. He next submits that applicant after furnishing surety before this Court has surrendered before trial Court therefore, has not misused the concession extended to him hence prays for confirmation of bail. In support of his contentions, learned counsel

places reliance upon the cases reported as KHALIL AHMED SOOMRO and others v. The STATE (PLD 2017 Supreme Court 730), MAZHAR HUSSAIN v. THE STATE and another (2012 SCMR 887), IHTISHAM ALI CHEEMA v. The STATE and another (2022 SCMR 624) and MUHAMMAD FAISAL v. The STATE and another (2020 SCMR 971).

5. On the other hand, learned Assistant Prosecutor General appearing for State opposes bail application on the ground that injured / Abdul Aziz in all sustained four injuries at the hands of applicant.

7. Heard. Record perused.

8. Admittedly, the incident had occurred on 24.08.2022 whereas report thereof was lodged on 18.09.2022 i.e. after the delay of about 24 days though the distance between Police Station and place of incident is 5/6 kilometers; however, no any plausible explanation has been furnished by prosecution for such an inordinate delay. The injuries allegedly sustained by injured / complainant are on his non-vital parts of body besides such injuries have been opined by Medicolegal Officer to be punishable u/s 337-F(vi), 337-F(iii), 337-F(i) PPC which carries punishment upto 07 years. Case is being tried by the Court of Judicial Magistrate where after recording the evidence of prosecution witnesses, if prosecution may succeed to prove its charge against applicant even then the punishment of more than 03 years cannot be visualized. The I.O present in Court submits that case papers have been submitted by him before the Legal Department for opinion therefore, he would submit challan on or before 22nd of instant. In the circumstances and in view of cases of Mastzer Dur Muhammad and 2 others v. The State (1994 P.Cr.L.J 1769) and MUHAMMAD TANVEER v. The STATE and another (PLD 2017 Supreme Court 733), case against applicant requires further inquiry within the meaning of sub-section 2 to Section 497 Cr.P.C. Consequently, instant bail application is allowed and the interim pre-arrest bail already granted to applicant on 20.10.2022 is hereby confirmed on same terms and conditions.

JUDGE

