

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Criminal Bail Application No.S-1390 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
1.	For orders on office objections.
2.	For hearing of main case.
<b><u>09.01.2023</u></b>	

Mr. Abdul Sattar Baloch, Advocate along-with applicant (on bail).  
Ms. Sana Memon, Assistant Prosecutor General, Sindh.

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**ORDER**

**Muhammad Saleem Jessar, J:-** Through this bail application, applicant Murad Bux seeks his admission on pre-arrest bail in Crime No.71 of 2022 registered at P.S. Kunri District Umerkot, under Sections 302, 114, 337-A(i), 337-F(i), 34 P.P.C. The case has been challaned by the police which is now pending for trial before the Court of 2<sup>nd</sup> Additional Sessions Judge, Umerkot vide Sessions Case No. Nil re-The State Vs. Ahmed & others. The applicant preferred criminal bail application No.613 of 2022 before the Court of Sessions Judge which subsequently was assigned to Additional Sessions Judge-I, Umerkot but request so made was turned down by order dated 08.01.2022, hence this bail application.

2. Facts of the case are already mentioned in memo of bail application as well as F.I.R, hence need not to be reiterated.

3. Learned counsel submits that niece (son of sister of the applicant) namely Fahim contracted marriage with the daughter of complainant Mst. Noor some two years back and out of said wedlock she had given birth to two children; however, due to that grudge the brother of complainant namely Ahmed (deceased) had quarreled with co-accused Sulaiman which resulted his death. He next submits that co-accused Sulaim against whom allegation of causing murder of deceased Ahmed is leveled is in custody. As far as role of present applicant is concerned, he allegedly caused hatchet blows to injured PW Usama, which landed on his arm and has not been specified either it was right arm or left arm. He further submits the injuries allegedly sustained by injured PW Usama have been declared by the Medico-legal Officer to be punishable under section 337-F(i) P.P.C and isailable. He further submits case has been challenged which is now pending before the Court of 2<sup>nd</sup> Additional Sessions Judge Umerkot re-The State Vs. Ahmed and others. He next submits that question of vicarious liability is yet to be determined by the Trial Court after recording evidence of prosecution's witnesses and at this juncture the applicant deserves lenient view.

4. Learned Assistant Prosecutor General, Sindh appearing for the State opposes the bail application and submits that applicant has caused hatchet blows to injured PW Usama. She; however, admits that injuries allegedly sustained by injured PW Usama are on his non-vital parts of the body besides are bailable.

5. Complainant present in person opposes the bail application and submits that applicant had also made quarrel with her, therefore, he may be taken into custody. She; however, admits that her daughter Mst. Noor had entered into Nikah with niece of present applicant namely Fahim and still she is residing with him.

6. Heard arguments and perused the record.

7. No doubt the applicant is nominated in the F.I.R with role of causing hatchet blows to injured PW Usama; however, the injuries allegedly sustained by injured PW Usama are on his non-vital parts of the body. Besides punishment provided by the law for said injuries does not exceed the limits of prohibitory clause of section 497 Cr.P.C and is bailable. As far as question of vicarious liability is concerned, it is yet to be determined by the Trial Court after recording evidence of prosecution's witnesses. Moreover parties are already on strained relations over issue of Court marriage with daughter of complainant which has not been denied by the complainant present in Court today and it is sufficient to hold that applicant may have been implicated by the prosecution for ulterior motives on account of the malafide as stated above. Hence basic ingredients for grant of interim pre-arrest bail as enshrined by Hon'ble Supreme Court of Pakistan in case of Rana Muhammad Arshad Vs. Muhammad Rafique & another [PLD 2009 SC 427] are fully attracts in this case. In the circumstances and in view of the dicta laid down by Hon'ble Supreme Court in case of KHALIL AHMED SOOMRO and others Vs. The State [PLD 2017 Supreme Court 730] the case against the applicant requires further inquiry within the meaning of sub-section (2) to section 497 Cr.P.C. Consequently, instant bail application is hereby allowed. Interim bail earlier granted to applicant vide order dated 22.12.2022 is hereby confirmed on same terms and conditions. The applicant present before the Court is directed to continue his appearance before the Trial Court without fail till final decision of main case.

8. Needless to mention here that the observations made hereinabove are tentative in nature and may not prejudice the case of either side at trial before the trial Court.

JUDGE