

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail Application No.S- 1244 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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08.12.2022.

Mr. Jeelaji Rajput, Advocate for applicant alongwith applicant (on bail).

Ms. Sana Memon, A.P.G for State.

Complainant present in person.

ORDER

Muhammad Saleem Jessar, J.- At the very outset learned counsel for applicant submits the copy of case diary dated 18.11.2022 issued by the Court of Civil Judge & Judicial Magistrate-I, Mithi vide Criminal Case No.83/2022 Re-The State v. Hakam and others, taken on record. He therefore, submits that after furnishing surety before this Court the applicant has surrendered before the trial Court and has not misused the concession of bail. He next submits that parties are on strained relations over the landed disputed besides the FIR is delayed for about 05 days and no plausible explanation has been furnished by complainant for such an inordinate delay. He further submits that the role attributed to applicant is that he allegedly caused lathi blow to complainant which landed on his left arm which is not vital part of the body therefore, case against applicant requires further inquiry.

2. On the other hand, learned A.P.G appearing for State opposes the bail application on the ground that specific role of causing injury is assigned to applicant therefore, he is not entitled to concession of bail. She; however, could not controvert the fact that injury allegedly attributed to him carries punishment of 07 years and does not exceed the limits of prohibitory clause of Section 497 Cr.P.C.

3. The complainant present in person also opposes the application; however, admits that they are already on dispute over the landed

property. He submits that the case has been challaned which is now pending for trial and is fixed on 10.12.2022.

4. Heard. Record perused.

5. Admittedly, the incident is said to have taken place on 06.10.2022 whereas FIR thereof was lodged on 10.10.2022 after the delay of about 04 days though the distance between place of incident and the police station is only 30 kilometers. The role attributed to applicant is that he allegedly caused lathi blow upon the complainant which landed on his left arm and the injury allegedly sustained by complainant as per medicolegal certificate is punishable u/s 337-F(vi) and L(ii) PPC which carries maximum punishment upto 07 years. The case is being tried by the Court of Judicial Magistrate where after recording evidence of prosecution witnesses if the prosecution may succeed to prove its charge against him even then the punishment of more than 03 years cannot be visualized. In the light of dictum laid down by Honourable Supreme Court of Pakistan in the case of Muhammad Tanveer v. The State and another (PLD 2017 Supreme Court 733) and the case of Master Dur Muhammad and 2 others v. The State (1994 P.Cr.L.J 1769), the case against applicant requires further enquiry. In the circumstances and in view of above factual position, the case against applicant requires further inquiry as envisaged under sub-section (2) to Section 497 Cr.P.C. Accordingly, instant bail application is hereby allowed and the interim pre-arrest bail already granted to applicant on 17.11.2022 is hereby confirmed on same terms and conditions. However, applicant is directed to continue his appearance before the trial Court, without fail.

JUDGE

Tufail